

# ***PROCEDURE***

***in the***  
***U.S. House of***  
***Representatives***

|                 |
|-----------------|
| 1987 Supplement |
|-----------------|

Annotations of the Precedents  
of the House for the 97th,  
98th, and 99th Congresses

Prepared by the Office  
of the Parliamentarian,  
U.S. House of Representatives

This publication supplements *Procedure in the U.S. House of Representatives*, 97th Cong., Deschler/Brown, and is intended to replace the 1985 supplement to that volume. The annotations in this supplement are cumulated by chapter and section number to the annotations in the bound volume. Unless otherwise indicated, all citations are to the *Congressional Record* (e.g., 98-2, Jan. 20, 1984, p .....). Some page numbers have been left blank pending publication of the permanent Record.

H 940-1

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, DC 20402



**PERIODIC PREPARATION BY HOUSE PARLIAMENTARIAN  
OF CONDENSED AND SIMPLIFIED VERSION  
OF HOUSE PRECEDENTS**

Sec. 332. The Parliamentarian of the House of Representatives shall prepare, compile, and maintain on a current basis and in cumulative form, for each Congress commencing with the Ninety-third Congress a condensed and, insofar as practicable, up-to-date version of all of the parliamentary precedents of the House of Representatives which have current use and application in the House, together with informative text prepared by the Parliamentarian and other useful material in summary form. The Parliamentarian shall have such matter printed for each Congress on pages of such size and in such type and format as he considers advisable to promote the usefulness of such matter to the Members of the House and shall provide a printed copy thereof to each Member in each Congress, including the Resident Commissioner from Puerto Rico, and may make such other distribution of such printed copies as he considers advisable. In carrying out this section, the Parliamentarian may appoint and fix the pay of personnel and utilize the services of personnel of the Library of Congress and the Government Printing Office.

Public Law 510—91st Congress

## Chapter 1

# Assembly of Congress

### § 1. In General; Day of Convening

§ 1.7 By unanimous consent, the House considered and passed a joint resolution providing for the convening of the 99th Congress, second session on Jan. 21, 1986. 99-1, Dec. 20, 1985, p ..... The same procedure was used to provide for the convening of the 100th Congress, first session on Jan. 6, 1987. 99-2, Oct. 17, 1986, p .....

### § 4. Organizational Business—First Session

§ 4.1 At the beginning of a new Congress, the Sergeant at Arms of the preceding Congress (pursuant to 2 USC § 26) calls the House to order in the absence or incapacity of the Clerk. 97-1, Jan. 5, 1981, pp 93-96; 98-1, Jan. 3, 1983, p .....

§ 4.3 98-1, Jan. 3, 1983, p .....

### § 5. Organizational Business—Second Session

§ 5.3 At the convening of the second session the Speaker calls the House to order and, following the opening prayer, orders a call of the House without motion, which may be taken by electronic device, to establish a quorum. 98-2, Jan. 23, 1984, p .....; 99-2, Jan. 21, 1986, p .....

§ 5.6 98-2, Jan. 23, 1984, p .....; 99-2, Jan. 21, 1986, p .....

### § 7. Procedure Prior to Adoption of Rules

§ 7.14 Prior to adoption of the rules, the motion to commit is in order after the previous question has been ordered on a resolution (5 Hinds § 5604). 97-1, Jan. 5, 1981, p 112; 98-1, Jan. 3, 1983, p .....

## Chapter 2

# Members' Oath of Office

### § 1. In General; Administering the Oath

§ 1.2 98-1, Jan. 3, 1983, p .....

§ 1.5 The Speaker administered the oath of office to several Members-elect prior to the vote on the previous question on a resolution adopting the rules of the House. 97-1, Jan. 5, 1981, p 103; 98-1, Jan. 3, 1983, p ..... The Speaker may interrupt a call of the House ordered pursuant to clause 6(e)(2) of Rule XV,

to administer the oath of office to a Member-elect. 97-1, Jan. 22, 1981, p 693.

§ 1.8 The Speaker laid before the House a communication from the Clerk, advising of the receipt of a telegram from the Secretary of State from California containing "semi-official" results of a special election to fill a vacancy in the House. 97-2, July 15, 1982, p 16332.

§ 1.9 Pending consideration of a resolution relating to the right of a Member-elect to his seat, another unchallenged Member-elect may be sworn in by the Speaker to permit him to vote on the resolution. 99-1, Jan. 3, 1985, p 387.

## § 2. Administering the Oath to Absent Members

§ 2.1 By unanimous consent, the House considered and agreed to resolutions authorizing the Speaker or his deputy to administer the oath of office to two Members-elect absent due to illness in the family. 98-1, Jan. 3, 1983, p ..... *Note:* These are the first instances of resolutions permitting a Member-elect to be sworn away from the Chamber merely due to illness in the family.

## § 3. Administration of Oath by Deputy

§ 3.2 The Speaker appointed a federal district judge to administer the oath of office to an absent Member-elect. 97-1, Jan. 5, 1981, p 114.

§ 3.7 97-1, Jan. 9, 1981, p 239.

## § 4. Challenging the Right To Be Sworn

§ 4.1 Where the right of a certified Member-elect to take the oath of office is challenged by another Member-elect, the Speaker under the precedents requests the challenged Member-elect to remain seated while other Members-elect are administered the oath *en masse*, and the House then determines by resolution the disposition to be made of the challenge. 99-1, Jan. 3, 1985, pp 380-382. In this instance, the Majority Leader challenged the right of a certified Member-elect to take the oath of office, and then offered a privileged resolution referring the question of the final right of either that Member-elect or his oppo-

nent to be seated to the Committee on House Administration when elected, providing that neither shall be sworn pending the report of that committee and the subsequent decision by the House, paying from the contingent fund to both parties the daily equivalent of salary pending final seating, and providing clerical assistance to an office from that congressional district by the Clerk.

§ 4.2 A minority Member-elect having challenged the right of another Member-elect to take the oath of office, the Majority Leader offered a privileged resolution authorizing the Speaker to administer the oath to the challenged Member-elect. 99-1, Jan. 3, 1985, pp 380-382.

§ 4.4 A resolution directing the Speaker to administer the oath of office to a certified Member-elect and referring the question of his final right to the seat to the Committee on House Administration constitutes a question of the privileges of the House notwithstanding the House's prior refusal to seat either candidate pending a report from that committee on the question of final right to the seat. 99-1, Feb. 7, 1985, p 2220; 99-1, Mar. 4, 1985, pp 4277 et seq.; 99-1, Apr. 2, 1985, pp 7118 et seq.

§ 4.7 The question of the *prima facie* and final seating of a Member-elect constitutes a question of the privileges of the House under Art. I § 5 of the Constitution conferring upon the House the ultimate right to judge the elections of its Members, and under Rule IX as a question affecting the rights of the House collectively. Thus, where the House has not finally determined the question of the right of a Member-elect to his seat, but has temporarily denied seating pending a committee report on the question of final right, a Member may rise to a question of the privileges of the House to offer a resolution concerning the *prima facie* or final right to that seat. 99-1, Feb. 7, 1985, p 2220; 99-1, Apr. 2, 1985, pp

7118 et seq. In this connection, it is in order during debate on a motion to refer a resolution directing the temporary seating of a Member-elect to discuss court decisions relating to the constitutional authority of the House to judge its elections. 99-1, Mar. 4, 1985, p 4280.

§ 4.10 During debate on a privileged resolution disposing of the question of the right of a Member-elect to be sworn, that Member-elect may participate in the debate only by unanimous consent (1 Hinds § 474). 99-1, Jan. 3, 1985, p 382.

## Chapter 4

# House Facilities and Grounds

### § 3. Admission to the Floor

§ 3.4 While Rule XXXII permits no more than five committee staff persons to be on the floor at one time during consideration of business from that committee, the Chair has interpreted that rule to permit on the floor authorized committee majority and minority staff, in addition to the staff of the Budget Committee, where a budget reconciliation bill was pending. 97-1, June 26, 1981, p 14574. But Rule XXXII permits only clerks to committees to be on the floor during consideration of a bill reported from a committee and does not permit "leadership staff" to be on the floor if the question is raised. 97-2, July 29, 1982, p 18626. And in one instance, the Speaker announced that the personal staff of a Member did not have privilege of the floor and that committee staff could only be on the floor unobtrusively when business from their committee was under consideration. 97-2, Aug. 18, 1982, pp 21934, 21935. In 1986, the Speaker announced a revised policy regarding committee staff floor privileges, requiring the display of staff badges on the floor (in exchange for identification cards prior to admission to the floor) in order to assure compliance with Rule XXXII. 99-2, Jan. 21, 1986, p .....

§ 3.14 97-1, Jan. 5, 1981, p 11.

§ 3.17 Instance where the Speaker acknowledged the presence on the floor of a Senator from the state of a Member-elect being administered the oath of office. 97-1, July 9, 1981, p 114.

### § 6. Taking Photographs; Radio and Television Coverage

§ 6.11 The Minority Whip inserted in the Record a statement describing the history of the television coverage of House proceedings and its operation. 98-2, June 14, 1984, p .....

§ 6.13 The Speaker's directive that television cameras covering special-order speeches of the House at the completion of legislative business include periodic wide-angle coverage of the entire House Chamber was held to be consistent with the authority conferred upon the Speaker under clause 9 of Rule I to devise and implement complete and unedited audio and visual coverage of the proceedings of the House. In this instance, the Speaker directed the Clerk to immediately implement periodic wide-angle television coverage of all special-order speeches (with captions at the bottom of the screen indicating that legislative business had been completed). 98-2, May 10, 1984, p .....

In 1985, the Speaker pro tempore indicated that the Speaker's directive of the 98th Congress of May 10, 1984 (that there



be periodic wide-angle television coverage of special-order speeches with captions indicating completion of all legislative business), did not apply in situations where legislative business would be resumed, and that the Clerk had properly focused the cameras only on the Member speaking during such interim special orders. 99-1, Dec. 19, 1985, p .....

§ 6.14 A resolution directing the Speaker to provide for audio and visual broadcast coverage of the House while Members are voting constitutes a question of the privileges of the House under Rule IX involving the integrity of House proceedings, where House rules re-

quire complete broadcast coverage and no coverage of voting had been permitted. 99-1, Apr. 30, 1985, p 9821.

§ 6.15 A Member announced to the House the Speaker's directive pursuant to clause 9(a), Rule I, to telecast over the in-house system videotapes of the House Administration Committee proceedings and of its task-force recount of ballots in an election contest, for the information of all Members. 99-1, Apr. 29, 1985, p 9702. This was the first instance of the Speaker's exercise of authority under clause 9(a), Rule I, to permit closed-circuit television viewing of legislative proceedings other than House floor proceedings.

## Chapter 5

# The House Rules, Journal, and Record

## A. THE HOUSE RULES

### § 1. In General; Amendment

§ 1.4 The Committee on Rules may report a resolution amending the rules of the House, and the resolution may be considered on the same day reported by a two-thirds vote. 99-2, Apr. 23, 1986, p ..... The Committee on Rules has also reported a resolution vacating the proceedings by which a resolution amending the rules of the House had been agreed to on the previous day. 99-2, Apr. 23, 1986, p .....

§ 1.8 97-2, Dec. 21, 1982, p .....; 98-2, Oct. 11, 1984, p ..... See also 99-2, Oct. 17, 1986, p ....., H. Res. 600, authorizing the printing of the *House Rules and Manual* for the 100th Congress.

§ 1.10 The Speaker recognized for a unanimous-consent request for the immediate consideration of a resolution amending clause 1,

Rule XLVII of the rules of the House (limitations on outside earned income); the request was objected to. 99-2, Apr. 23, 1986, p .....

### § 2. Special Rules for Particular Bills; Waivers

§ 2.4 Where statutory provisions are enacted as an exercise of the rulemaking powers of the House and the Senate [Pub. L. No. 99-83, § 722(u)], the House retains the constitutional right to change the application of those rules in the House at any time, as by adopting a special order reported from the Committee on Rules directly or indirectly altering the statutory procedure. 99-2, Apr. 16, 1986, p .....

## B. THE JOURNAL

## § 4. In General

§ 4.4 The first order of business when the House convenes for a new legislative day, even if it is the second legislative day on the same calendar day, is the offering of prayer and the approval of the Journal from the preceding legislative day. 97-1, Nov. 17, 1981, pp 27772, 27773.

## § 7. Motions

§ 7.3 *Note:* An amendment to correct the Journal which would have the effect of deleting the disposition of a motion to reconsider a legislative proposition is not permitted. To permit amendments, under the guise of corrections of the Journal of the preceding day, to collaterally challenge the tabling of a motion to reconsider a legislative measure or matter would be to permit an improper degree of uncertainty to remain as to the actions of the House. 99-2, Apr. 23, 1986, p ..... In this instance, pending the Speaker's announcement of his approval of the Journal pursuant to clause 1, Rule I, he responded to parliamentary inquiries concerning recognition following approval of the Journal for a unanimous-consent request to vacate proceedings of the previous day and concerning possible Rules Committee action in the event unanimous consent was not obtained.

## § 8. — Motion to Approve

§ 8.9 Pursuant to clause 5 of Rule I, the Speaker postponed the vote on his approval of the Journal until a time certain that day (in order to permit a period of one-minute speeches and then a quorum call or record vote on the Journal prior to declaring a recess for a joint meeting). 98-2, May 16, 1984, p .....

## C. THE CONGRESSIONAL RECORD

## § 9. In General; Format

§ 9.11 The House agreed to a resolution, discharged from the Committee on House Administration and considered by unanimous consent, requesting the Joint Committee on Printing to permanently amend the House Supplement to Laws and Rules for Publication of the Congressional Record to require a substantially verbatim account of House proceedings in the Record, to be clearly distinguished, by different typeface, from material inserted under permission to extend remarks. 99-2, Aug. 12, 1986, p .....

## § 10. Matters Printed in the Record

§ 10.1 The House on motion committed a resolution, offered as a question of privilege and directing the Committee on Rules to recommend whether the *Congressional Record* should be a verbatim account of House debates, to the Committee on House Administration. 99-2, May 8, 1986, p .....

## § 11. Deletions

§ 11.9 By unanimous consent, a Member deleted from the permanent *Congressional Record* an article he had inserted in a previous day's Record, alleging that named Members of the House, who supported the nuclear freeze movement, were influenced by agents of the Soviet Union, and that evidence of that connection was purposefully kept from the public by a Member. 98-1, Sept. 15, 1983, p .....

§ 11.10 In the Senate, the Majority Leader obtained unanimous consent that a colloquy occurring between two Members of the Senate earlier in the day be deleted from the

*Congressional Record*. 97-1, Nov. 16, 1981, p 27586.

## § 12. Corrections

§ 12.3 A Member whose remarks during debate were omitted from printing in the Record may rise to a question of the privileges of the House under Rule IX to offer a resolution requiring correction of the Record and a report by the Clerk as to the circumstances surrounding the omission. 98-1, July 29, 1983, p .....

§ 12.4 Mere typographical errors in the Record or ordinary revisions of a Member's remarks do not give rise to privileged motions for the correction of the Record, since such changes for the permanent Record may be made without the permission of the House, and the House does not change the Record merely to show what a Member should have said during debate. And a motion in the House to correct the *Congressional Record* in order to make a grammatical or clerical change, no allegation being made that the integrity of the proceedings of the House are involved, does not give rise to a question of the privileges of the House. 99-2, Apr. 25, 1986, p .....

## § 14. — Permitting Extensions or Insertions

§ 14.4 A colloquy, no part of which was actually spoken on the floor by participating Members, may not be inserted into the *Congressional Record*. 99-1, Oct. 3, 1985, pp 26028, 26029.

§ 14.5 The identification of material inserted in the Record is now made by distinctive typeface. See § 9, *supra*. For the first instance of distinctive typeface used in the Record where no part of the remarks were actually delivered on the floor, in lieu of a "bullet" symbol, see 99-1, Sept. 4, 1985, p 22857.

§ 14.7 The Chair will not entertain unanimous-consent requests by Members to revise and extend their arguments on points of order (it being essential that the Chair's ruling be responsive to arguments actually made). 98-1, Nov. 2, 1983, p .....

§ 14.8 Instance where the Chairman of the Committee on Energy and Commerce obtained unanimous consent to insert into the *Congressional Record* certain correspondence between himself and his Senate counterparts. 98-2, Aug. 10, 1984, p ..... *Note:* While the rules of comity would normally preclude insertion in the Record of correspondence with a Senator, it may be accomplished by a unanimous-consent request specifically permitting that type of insertion.

## § 15. — General Permission to Extend

§ 15.4 General leave having been granted to all Members to revise and extend their remarks in the Record on a measure being considered in the House, requests by individual Members to revise and extend are not necessary. 99-2, Aug. 6, 1986, p .....

§ 15.9 Pursuant to rules governing publication of the *Congressional Record* promulgated by the Joint Committee on Printing as authorized by 44 USC § 901, where the House has by unanimous consent permitted all Members "general leave" to revise and extend their remarks on a particular measure, those Members who actually spoke during debate may revise their remarks to appear as if actually delivered, but Members' statements, no part of which were spoken, will be preceded and followed by a "bullet" symbol. 98-1, Nov. 15, 1983, p .....

§ 15.10 During debate on a privileged resolution of reprimand, a unanimous-consent request for general leave for all Members to extend their remarks in the Record did not

include permission to revise remarks actually made, in order to assure an accurate record of the proceedings. 98-1, July 20, 1983, p .....

§ 15.11 While general leave for all Members to revise and extend their remarks in the

Record on a bill may be obtained by unanimous consent, such requests may not include permission for Members to insert colloquys not actually part of the debate on the floor. 97-2, Aug. 10, 1982, p 20266.

## Chapter 6

# Officers and Staff

## A. THE SPEAKER

### § 2. Jurisdiction and Power; Rulings

§ 2.1 The Chair will refuse to entertain as a parliamentary inquiry questions concerning the availability or interpretation of amendments not yet offered, but may reiterate the proposed terms of a pending special order for the information of Members. 97-1, June 25, 1981, pp 14081-83.

§ 2.7 The House and not the Chair determines the constitutionality of proposed House action. 97-2, July 28, 1982, p 18385.

§ 2.11 The Chair does not, in response to a parliamentary inquiry, advise on whether the failure of House conferees to abide by a motion to instruct would be beyond their scope of authority. 97-1, Oct. 29, 1981, p 26049.

## B. THE SPEAKER PRO TEMPORE

### § 4. In General; Election or Appointment

§ 4.5 *Delete and Insert*: Under the former practice, only an elected Speaker pro tempore could sign enrolled bills in the absence of

the Speaker. 96-1, Nov. 5, 1976, p 30933. The House in the 99th Congress amended Rule I clause 7 to authorize the Speaker to designate with the approval of the House a Member to sign enrolled bills as Speaker pro tempore (without being elected by the House). 99-1, Jan. 3, 1985, p 394. For the first example of the Speaker utilizing authority conferred in clause 7, Rule I to designate the Speaker pro tempore to sign enrolled bills, see 99-1, Apr. 4, 1985, p 7557. In 1986, the Speaker designated the Majority Leader to act as Speaker pro tempore for the remainder of the second session of the 99th Congress to sign enrolled bills. 99-2, Oct. 17, 1986, p .....

### § 6. Term or Duration of Office

§ 6.4 Privileged resolution electing the Majority Leader as Speaker pro tempore during the Speaker's absence following *sine die* adjournment and extending to a day certain. 97-1, Dec. 16, 1981, p 31850.

## C. OTHER OFFICERS AND OFFICIALS

### § 7. In General; Elections

§ 7.5 98-1, Jan. 3, 1983, p .....



## Chapter 7

## The Members

**§ 5. Personnel, Clerk-hire, and Related Allowances**

§ 5.9 Where a Member-elect had been incapacitated due to illness so as to prevent her from taking the oath and from being able to receive salary and to designate clerk-hire em-

ployees pursuant to law, the House adopted a resolution paying her compensation from the contingent fund in lieu of salary and permitting the Clerk to designate clerk-hire as though that Member-elect had died or resigned. 97-1, Jan. 27, 1981, p 974.

## Chapter 8

## Elections

**§ 1. In General; Certificates of Election**

§ 1.2 97-1, July 28, 1981, p 17686.

§ 1.6 Where a candidate's certificate of election was contradicted by extrinsic evidence of irregularities in state certification and recount procedures (although not by documents from state election officials), the House declared that neither candidate was to be sworn and that the question of prima facie and final right to the seat be referred to a committee. 99-1, Jan. 3, 1985, p 381 (H. Res. 1, referring the McIntyre-McCloskey election in the Eighth District of Indiana to the Committee on House Administration). Subsequently, the Minority Leader read in debate a letter from the Secretary of the State of Indiana advising that the Member-elect who had received the certificate of election but who had not been seated on opening day had, as the result of a complete recount under state law, been elected by 418 votes, thereby validating the original certificate of election. 99-1, Feb. 6, 1985, p 1844. However, the Committee on House Administration, after a complete recount con-

ducted by a task force of that committee, determined one candidate (McCloskey) to have been elected by four votes over the state-certified Member-elect McIntyre, and in May the House adopted a resolution to this effect. While under state law and House precedents unnotarized absentee ballots are invalid and should not be counted by state election officials or by a recount conducted by the House, where some of those ballots had been commingled with valid ballots at the precinct level and could not be separately identified and retrieved, the House affirmed the counting of those ballots and the invalidity pursuant to state law of other such ballots which had been retained by county clerks and had not been counted. 99-1, May 1, 1985, pp 9998 et seq. For an historical review of instances where Members-elect holding certificates of election were not seated by the House, see 99-1, Mar. 7, 1985, p 5025.

§ 1.7 A territorial statute declaring a Delegate elected to Congress who receives "a majority of the votes cast" was interpreted to mean a majority of the valid votes cast,

rather than a majority of valid and invalid votes cast. 99-1, July 24, 1985, p 20180 (H. Res. 229, dismissing the election contest of Won Pat v Blaz, Delegate from Guam). See also Ch 9 § 4, *infra*.

the Governor of Georgia had proclaimed a vacancy due to the death of Representative Larry McDonald (a passenger on a South Korean passenger airline shot down by Soviet aircraft). 98-1, Sept. 12, 1983, p .....

## § 2. Filling Vacancies

§ 2.4 The Speaker laid before the House a communication from the Clerk advising that

## Chapter 9

# Election Contests and Disputes

## § 2. Resolutions and Reports

§ 2.1 Where the House has not determined the question of the final right of a Member-elect to his seat, a resolution proposing to declare the seat vacant constitutes a question of the privileges of the House pursuant to article I section 5 of the Constitution conferring upon each House the right to judge the elections of its Members, and pursuant to Rule IX involving the rights of the Members collectively. See 99-1, Apr. 30, 1985, p 9801. In this instance, where the Committee on House Administration had filed a privileged report recommending the final seating of a candidate (not the certified Member-elect) based upon a total recount of votes conducted by a task force of that committee, a Member submitted a resolution as a question of privilege declaring the seat vacant, prior to consideration of a privileged resolution recommended by the committee.

## § 3. Consideration and Debate

§ 3.4 Instance where the contestee (the seated Member) voted in favor of a resolution dismissing the election contest against him and then took the floor to explain that he in-

tended to vote "present". 99-1, Oct. 2, 1985, p 25670.

## § 4. Disposition of Contest

§ 4.1 The House adopted a privileged resolution, reported from the Committee on House Administration, dismissing an election contest against Representative James M. Clarke of North Carolina. 98-1, Nov. 15, 1983, p ..... And a resolution reported from that committee dismissing an election contest against a Delegate to the House was called up as privileged under Rule IX and under clause 4(a), Rule XI. 99-1, July 24, 1985, p 20180.

§ 4.7 A contestant must present sufficient documentary and other evidence to overcome a contestee's motion to dismiss an election contest in the Committee on House Administration. 99-1, July 24, 1985, p 20180. A contestant has the burden of opposing a motion in committee to dismiss an election contest by presenting sufficient documentary and other evidence to show (1) that the result of the election would be changed, or (2) that the House should conduct a complete recount. 99-1, Oct. 2, 1985, p 25665.

§ 4.9 Late mailing of absentee ballots to territorial residents was found not to have sufficiently affected the outcome of an election to declare it invalid, where most ballots could have been returned immediately in time to be counted as per instructions to voters. 99-1, July 24, 1985, p 20180.

§ 4.11 A contestant in a contested election case must demonstrate with sufficient evidence, as required by the Federal Contested Election Act, that the outcome of the election was affected by irregular vote-counting procedures (counting ballots marked both for a straight party ticket and for an individual candidate of another party as a straight party vote). 98-1, Nov. 15, 1983, p ..... In this instance, the House adopted a privileged reso-

lution, reported from the Committee on House Administration, dismissing the election contest against Representative Ron Packard, of California, where the contestant had failed to establish, as required by the Federal Contested Election Act, that the outcome of the election was affected by alleged voting irregularities; the committee report recommended that the state election officials explore alternatives to correct the alleged voting irregularities (procedures for handling write-in candidacies).

§ 4.14 A contestant in a contested election case, wishing to challenge an election on the basis of known pre-election irregularities, must challenge the irregularities prior to the election in question. 98-1, Nov. 15, 1983, p .....

## Chapter 10

# Presidential Elections; Electoral College

## § 2. Joint Sessions

§ 2.1 97-1, Jan. 5, 1981, p 114.

§ 2.4 The House considered by unanimous consent and adopted a joint resolution chang-

ing, for 1985, the date set (in 3 USC § 15) for the count of the electoral vote from Jan. 6 (a Sunday) to Jan. 7. 98-2, Sept. 19, 1984, p .....

## Chapter 11

# Privilege

## A. PRIVILEGE OF THE HOUSE

## § 1. In General; Precedence

§ 1.1 Under Rule IX, a question of the privileges of the House takes precedence over a question of personal privilege, and a Member

may not rise to a question of personal privilege during consideration of a resolution constituting a question of privilege of the House. 99-1, Apr. 30, 1985, p 9801; 99-1, May 1, 1985, p 10003.

§ 1.2 A resolution raising a question of the privileges of the House, since it takes prece-

dence over a motion to suspend the rules, may be offered and voted on between motions to suspend the rules on which the Speaker has postponed record votes until after debate on all suspensions. 98-1, May 17, 1983, p .....

§ 1.5 Instance where the Speaker on his own initiative, without a point of order having been raised from the floor, ruled that a resolution did not constitute a question of the privileges of the House under Rule IX. 98-2, Jan. 23, 1984, p .....

§ 1.7 A question of the privileges of the House may not be invoked to effect a change in the rules of the House or their interpretation. In one instance, a resolution directing that the party ratios of all standing committees, subcommittees, and staffs thereof be changed within a time certain to reflect overall party ratios in the House was held to constitute a change in the rules of the House, which already address the question of procedures for selecting committee members and staff, and was held not to constitute a question of the privileges of the House under Rule IX. 98-2, Jan. 23, 1984, p .....

On the other hand, a resolution asserting that the ratio of Republican representation on various subcommittees was less than the ratio of representation on full committees, to the disadvantage of constituents of Republican Members and of the right of all Members of the House, and resolving that each subcommittee of the House should be constituted in a ratio proportionate to the membership on full committees, was held to constitute a question of the privileges of the House, since it did not change the rules of the House or their interpretation or collaterally attack an action already taken by the House (the House having no rule or procedure for determining subcommittee composition). 98-2, Oct. 4, 1984, p .....

§ 1.13 A resolution responding to a court subpoena for records of a House select com-

mittee gives rise to a question of the privileges of the House under Rule IX. 98-1, Apr. 28, 1983, p .....

Likewise, a report from a committee on the refusal of an executive branch official to testify in response to a subpoena issued by its subcommittee gives rise to a question of the privileges of the House. 98-1, May 18, 1983, p .....

§ 1.15 While unanimous-consent requests, if granted, may temporarily waive standing rules of the House which otherwise confer precedence on questions of the privileges of the House, any Member may, by objecting to those requests, require the Speaker to recognize the Member raising the question of privilege. 99-1, July 10, 1985, p 18394.

§ 1.24 Allegations of alterations of the *Congressional Record* affect the integrity of the proceedings of the House and give rise to a question of the privileges of the House under Rule IX. A resolution directing the Committee on Rules to investigate and report to the House within a time certain on alleged alterations of the *Congressional Record* was held to give rise to a question of the privileges of the House under the rule. 98-2, Jan. 24, 1984, p .....

A resolution alleging that the *Congressional Record* is not a "substantially verbatim report" of House debates as required by law and directing the Rules Committee to investigate specified instances of misleading accounts of debates and to report to the House within a time certain its findings and recommendations as to whether the Record should constitute a verbatim transcript was held to constitute a question of the privileges of the House involving the integrity of House proceedings. 99-1, May 8, 1985, p 11073.

§ 1.26 An assertion by a Member that a Senate amendment raising revenue to a House-passed bill not raising revenue violates article I section 7 of the Constitution—requiring revenue-raising measures to originate in the House—gives rise to a question of the



privileges of the House. In this instance, the House laid on the table a resolution offered as a question of privilege of the House under Rule IX directing return of Senate amendments raising revenue to a House bill reducing revenue, thereby declining to determine that the Senate had infringed upon the constitutional prerogative of the House to originate revenue measures. 97-2, July 28, 1982, p 18375. In 1984, the House adopted a resolution considered as a question of the privilege of the House returning a Senate bill to the Senate as an infringement of the House's prerogative to originate revenue measures, and then passed a similar House bill under suspension of the rules. 98-1, May 17, 1983, p .....

An assertion by a Member that a conference report containing modifications of a Senate amendment raising revenue on a House-passed bill not raising revenue violates article I section 7 of the Constitution—requiring revenue-raising measures to originate in the House, also gives rise to a question of the privileges of the House under Rule IX. In this instance, the House laid on the table a resolution offered as a question of the privileges of the House directing return to the Senate of Senate amendments raising revenue to a House bill not raising revenue, thereby declining to determine that the Senate and conferees had infringed upon the constitutional prerogative of the House to originate revenue measures. 97-2, Aug. 19, 1982, p 22127. A resolution asserting that a Senate-passed bill contained revenue-raising provisions in violation of article I section 7 of the U.S. Constitution gives rise to a question of the privileges of the House under Rule IX. 99-2, Sept. 25, 1986, p .....

**§ 1.30** A resolution authorizing the Speaker to retain counsel, to intervene and to file *amicus curiae* briefs in two civil actions pending before federal appellate courts in order to protect the interests of the House in determinations of the constitutionality of legislative review provisions in two statutes, presents a

question of the privileges of the House. 97-1, Jan. 29, 1981, p 1304.

**§ 1.31** A court challenge to the prerogatives of the House under the constitutional separation of powers gives rise to a question of the privileges of the House. 97-2, Mar. 30, 1982, p 5890. *Note:* The suit had sought to enjoin payment by the U.S. Treasurer of the salary of the House and Senate Chaplains. In this instance, a resolution asserting the constitutional prerogative of the House to establish the office of Chaplain and directing counsel for the Speaker and Chaplain to seek judicial review of a U.S. Court of Appeals decision was held to give rise to a question of the privileges of the House under Rule IX.

**§ 1.32** Instance where a resolution directing the Committee on Rules to investigate the effect of proxy voting in committees upon the integrity of House proceedings and to report its recommendations in a time certain was offered as a question of the privileges of the House (no point of order against the privileged status of the resolution being raised), and the resolution was then laid on the table without debate. 98-2, Jan. 26, 1984, p .....

**§ 1.33** A resolution requesting the Senate to return a House-passed bill and accompanying papers to the House raises a question of privileges of the House under Rule IX if an error has been made by the Clerk in preparing the message to the Senate (3 Hinds § 2613). 97-2, Oct. 1, 1982, p 27172.

**§ 1.34** The question of consideration may be demanded against a matter of privilege, such as the right of a Member-elect to his seat (5 Hinds § 4941). 99-1, May 1, 1985, p 9998.



## B. SUITS AGAINST THE HOUSE OR ITS MEMBERS; SUBPENAS

### § 2. In General; Nature and Scope of Privilege

§ 2.1 The House adopted new Rule L, to incorporate provisions of H. Res. 722 (96th Cong.) relating to House procedure in response to subpoenas to Members, officers, and employees relating to official functions of the House. 97-1, Jan. 5, 1981, p 98.

### § 4. The Clerk—Civil Actions

§ 4.6 The Speaker laid before the House a communication from the Clerk, pursuant to Rule L clause 2, advising of the receipt of a deposition subpoena from a federal court requesting the production of certain records maintained by his office. 97-1, Apr. 10, 1981, p 7305. Subsequently, the Speaker laid before the House a communication from the Clerk advising that compliance by the Clerk with a subpoena, to testify or produce documents for telephone toll records of a former Member in a civil proceeding in federal district court, had been effected, and that prior to compliance determinations as to jurisdiction, materiality, and relevancy, and consistency with the rights and privileges of the House, had been made pursuant to Rule L. 97-1, Nov. 21, 1981, p 28709.

### § 7. The Members

§ 7.17 A Member, having been subpoenaed to produce a document under his control as chairman of the unofficial "House Personnel Committee," advised the Speaker that he had determined the subpoena to be a proper exercise of the court's jurisdiction, material and relevant, and consistent with the privileges of the House pursuant to Rule L, and the Speaker lay the notification before the House. 97-2, May 27, 1982, p 12505.

## § 8. Committees

§ 8.5 The Speaker laid before the House a communication from the Chairman of the Committee on Foreign Affairs, notifying the Speaker of the receipt of a subpoena duces tecum in a federal civil action requesting documents relating to that committee investigation in a prior Congress, now in the custody of the Clerk pursuant to Rule XXXVI, and advising that a determination would be made as to the propriety of the subpoena, and notification thereof made to the House, pursuant to Rule L clause 4. 97-1, Mar. 9, 1981, p 3783.

§ 8.6 The Chairman of the Committee on Foreign Affairs, having received a subpoena duces tecum in a federal criminal action requesting production of executive session records of that committee from the prior Congress now in custody of the Clerk, notified the Speaker pursuant to clause 2, Rule L that determinations as to the propriety of the subpoena would be made, and the Speaker laid the matter before the House. 97-1, Apr. 28, 1981, p 7603.

## § 9. — Committee Employees

§ 9.9 A former employee of a former House select committee having been subpoenaed to give a deposition in a federal civil action involving his recollection of executive session transactions of that committee, advised the Speaker who notified the House pursuant to Rule L, that he had advised the former employee that he could not respond to the subpoena for executive session records without the permission of the House. 97-1, Jan. 22, 1981, p 694.

§ 9.10 The Speaker laid before the House a communication from the director of House Information Systems, Committee on House Administration, notifying the Speaker of the receipt of a subpoena for a deposition and for the production of a House document (a pur-

chase order for computer equipment) before a federal district court, and advising that a determination would be made as to the propriety of the subpoena, and notification thereof made to the House, pursuant to Rule L. 97-1, June 4, 1981, p 11501.

§ 9.11 The Speaker laid before the House a communication from the staff director of the Committee on Standards of Official Conduct advising, pursuant to Rule L, of the receipt of a subpoena ad testificandum from a federal district court (to testify with respect to certain committee documents). 97-1, Nov. 5, 1981, p 26738. Subsequently, the Speaker pro tempore laid before the House a communication from the staff director of the Committee on Standards of Official Conduct, pursuant to Rule L, advising that he had determined, after consultation with the counsel to the Clerk, that it would be consistent with the provisions of Rule L for the staff director to comply with a subpoena from a federal district court to testify in a (criminal) court proceeding to authenticate public documents (financial disclosure statements) filed with the committee. 97-1, Nov. 16, 1981, p 27648.

§ 9.12 The Speaker laid before the House a communication from the chief counsel and staff director of the Subcommittee on Energy and Power of the Committee on Energy and Commerce, advising that he and other staff members of the committee had been served with subpoenas to appear for depositions involving official functions of the House and investigatory activities of the committee, advising that determinations as to the propriety of the subpoena would be made pursuant to Rule L, and requesting the Speaker to provide legal representation. 97-1, Feb. 25, 1981, p 3037.

## § 10. Authorization for Court Appearance or Disclosure of Documents

§ 10.37 The Speaker lay before the House a communication from the joint House leadership addressed to the Clerk, instructing him not to produce original documents in his possession in response to a subpoena for a deposition in a federal civil action until reconsideration by the leadership upon receipt of a more specific subpoena. 97-2, Mar. 31, 1982, p 6114.

§ 10.38 The House adopted a resolution presented as a question of the privileges of the House denying compliance with a subpoena duces tecum issued by a U.S. District Court served on the Clerk for the production of records in his custody (documents of a select committee from a prior Congress), where the Speaker and the joint House leadership had instructed the Clerk in the previous Congress not to produce the records in response to the subpoena and where the court refused to stay the subpoena or allow the select committee to intervene to protect its interest, the resolution providing that the House considered the subpoena to be an unwarranted and unconstitutional invasion of its constitutional prerogative; ordering the Clerk not to produce any of said records in response to the subpoena; directing the counsel to the Clerk to assert the rights and privileges of the House and to take all steps necessary to protect the rights of the House; and directing the Clerk to transmit a certified copy of the resolution to the district court. 98-1, Apr. 28, 1983, p .....

§ 10.39 A former employee of a former House select committee having been subpoenaed to give a deposition in a federal civil action involving his recollection of executive session transactions of that committee, advised the Speaker who notified the House pursuant to Rule L, that he had advised the former employee that he could not respond

to the subpoena for executive session records without the permission of the House. 97-1, Jan. 22, 1981, p 69.

§ 10.40 A Member whose present and former employees have been served with subpoenas relating to their official functions informs the Speaker, who lays the notification before the House pursuant to clause 2, Rule L. 99-2, June 10, 1986, p .....

### C. PERSONAL PRIVILEGE OF MEMBER

#### § 13. Procedure; Stating Questions of Privilege

§ 13.1 A Member was recognized for one hour on a question of personal privilege based on violation of his rights as a Member, involving unauthorized printed alterations in his statements made during subcommittee hearings in the prior Congress. 98-1, June 28, 1983, p .....

*Note:* Questions of personal privilege under Rule IX normally involve cases where a Member's reputation has been damaged, particularly in press accounts; but Rule IX describes as the second category of privileged questions, the "rights, reputation, and conduct of Members, individually."

§ 13.3 A question of personal privilege cannot take another Member from the floor. 98-1, Sept. 29, 1983, p .....

§ 13.4 Debate on a question of personal privilege must be confined to the statements or issue which gave rise to the question of privilege (5 Hinds §§ 5075-77; 6 Cannon §§ 576, 608; 8 Cannon §§ 2448, 2481). 98-2, May 31, 1984, p .....

§ 13.5 The fraudulent and unauthorized use of a Member's official stationery affects the reputation of the Member in his official capacity and gives rise to a question of personal privilege under Rule IX. 99-2, Sept. 17, 1986,

p .....

In this instance, a Member's official stationery having been fraudulently signed and circulated as a "dear colleague" letter, that Member rose to a question of personal privilege.

#### § 14. Criticism Before House or Senate

§ 14.3 A printed characterization by an officer of the House of a Member's proposed amendments as "dilatatory and frivolous" may give rise to a question of personal privilege. 99-1, Aug 1, 1985, p 22542.

#### § 15. Criticism in the Press

§ 15.1 A question of personal privilege may be based upon a press account quoting derogatory statements allegedly delivered outside the Chamber by one Member against another. In this instance, the Speaker recognized a Member for a question of personal privilege based upon a newspaper account quoting the Speaker as describing that Member and others as "John Bircher types." 98-2, May 31, 1984, p .....

§ 15.13 Press accounts of a Member's criticisms, both during debate and off the floor, of another Member may give rise to a question of personal privilege. In one instance, the Majority Leader and then another Member rose to questions of personal privilege under Rule IX to respond to press accounts of another Member's criticisms of their efforts to communicate with a foreign government concerning that country's human rights policies. 98-2, May 15, 1984, p .....

§ 15.14 While questions of personal privilege under Rule IX are ordinarily not based merely upon words spoken in debate, a Member may raise a question of personal privilege based upon press accounts of another Member's remarks during debate which impugn that Member's character or motives.

98-2, May 15, 1984, p ..... *Note:* The Speaker, in a one-minute speech on the previous day, had stated "a more low thing I have never seen" than the tactics of a Member in utilizing special-order speeches and television

coverage to "give the thought and the idea that Members of Congress were un-American. . . ." The Speaker ruled that "under all the circumstances" the Member could speak to a point of personal privilege.

## Chapter 12

# Conduct; Expulsion and Other Penalties

## § 1. In General; Standards of Official Conduct

§ 1.16 The House rejected a privileged resolution reported from the Committee on Rules, amending Rule XLVII to increase from 15 percent to 40 percent of a Member's salary the amount of outside earned income a Member may receive annually, and increasing from \$1,000 to \$2,000 the amount Members may accept as an honorarium. 97-1, Oct. 28, 1981, pp 25670, 25689. Subsequently, by unanimous consent, the House considered and agreed to a resolution amending Rule XLVII retroactively to the beginning of the Congress (1) to increase from 15 percent to 30 percent of a Member's salary which may be received annually as outside earned income, and (2) to remove the \$1,000 limitation on acceptance of honoraria for an appearance, speech, or article, payment for which was made attributable to the calendar year when received. 97-1, Dec. 15, 1981, p 31529. *Note:* Section 908 of the Supplemental Appropriations Act, 1983 (Pub. L. No. 98-63, 2 USC § 31-1) limited the amount of honoraria that Members and Senators could receive in a calendar year to 30 percent of their aggregate salary. The limitation was increased to 40 percent, effective Jan. 1, 1986 (§ 137, Pub. L. No. 99-190), but the House rule was not changed and still reflects 30 percent. The Senate repealed its rule on outside-earned income in the 97th Congress (S. Res. 512, Dec. 14, 1982). A separate

provision of law (2 USC § 441i) provides criminal penalties for any elected or appointed federal employee who accepts an honorarium of more than \$2,000 per speech, but the statutory ceiling of \$25,000 from honoraria in a calendar year was repealed in 1981 (Pub. L. No. 97-51). See 99-2, Apr. 22, 1986, p ..... (H. Res. 427, amending the rules of the House to increase the amount of outside-earned income which a Member may accept (from 30 to 40 percent of income), and H. Res. 432, agreed to on Apr. 23, 1986, vacating this action.

§ 1.20 For a similar resolution in 1981, see 97-1, Mar. 4, 1981, p 3529 (H. Res. 67).

§ 1.22 The House agreed to a resolution, offered by the Majority Leader under suspension of the rules, authorizing the Committee on Standards of Official Conduct to investigate alleged sexual misconduct, illegal distribution of drugs, and preferential treatment in exchange therefor by Members, officers, or employees of the House. 97-2, July 13, 1982, p 16035.

§ 1.23 The Chairman of the Committee on Government Operations announced to the House that he and the Chairmen of the Committees on Energy and Commerce and Science and Technology had requested the Committee on Standards of Official Conduct to conduct an investigation of unauthorized alterations in the printed transcript of a joint



hearing of subcommittees of those committees held in the 97th Congress. 98-1, June 16, 1983, p ..... After the House adopted a resolution directing the Committee on Standards of Official Conduct to investigate the unauthorized alterations in the printed transcript, the chairman of one of those committees announced to the House that a professional staff member of that committee had notified him that he had made unauthorized alterations in the remarks of certain minority members in that transcript, had submitted sworn statements to the Committee on Standards of Official Conduct, and had resigned. 98-1, Sept. 15, 1983, p ..... *Note:* See H. Res. 254 (98-1, June 30, 1983) for a resolution reported from Committee on Rules directing the investigation. Subsequently, the Chairman of the Committee on Standards of Official Conduct announced to the House that the committee had completed its investigation and reported to the House (H. Rept. No. 98-554) pursuant to a resolution adopted by the House (H. Res. 254, June 30, 1983) directing the committee to investigate all allegations of improper alterations to House documents, and that only one of 11 allegations had been substantiated by the committee's findings. 98-1, Nov. 16, 1983, p .....

§ 1.24 A resolution directing the Committee on Standards of Official Conduct to investigate alleged illegal solicitation of political contributions in a House office building by three (unnamed) Members gives rise to a question of the privileges of the House as affecting the dignity of the House. 99-1, July 10, 1985, pp 18394 et seq.

## § 2. Punishment; Expulsion, Censure, and Reprimand

§ 2.7 A resolution proposing the reprimand of a Member presents a question of the privileges of the House under Rule IX. 98-1, July 20, 1983, p .....

§ 2.8 Instance where, during debate on a resolution proposing reprimand of a Member for sexual misconduct, that Member apologized to the House for his conduct. 98-1, July 20, 1983, p .....

§ 2.20 The Chairman of the Committee on Standards of Official Conduct filed three privileged reports pursuant to that committee's inquiry, initiated in the prior Congress, into allegations of sexual misconduct and illegal drug distribution by Members and employees, two reports recommending reprimands of sitting Members for sexual misconduct in prior Congresses. 98-1, July 14, 1983, p ..... (H. Rept. No. 98-295, accompanying H. Res. 265, in the matter of Rep. Gerry E. Studds; H. Rept. No. 98-296, accompanying H. Res. 266, in the matter of Rep. Daniel B. Crane; H. Rept. No. 98-297, on the inquiry under H. Res. 12.) These reports focused on allegations of improper or illegal sexual conduct by Members, officers, or employees. The committee recommended that the two Members be reprimanded and that disciplinary proceedings be initiated against an employee of the Doorkeeper's office.

§ 2.21 The Chairman of the Committee on Standards of Official Conduct called up a privileged resolution (adopting that committee's report constituting a reprimand of a Member for sexual misconduct), and that resolution was amended by adoption of a motion to recommit with instructions to impose the more severe punishment of censure on that Member, in lieu of reprimand. The House then adopted the resolution as amended censuring the Member (Rep. Gerry E. Studds) for sexual misconduct in a prior Congress, and directing that Member to present himself in the well of the House for the pronouncement of censure by the Speaker. 98-1, July 20, 1983, p ..... (H. Res. 265).

§ 2.22 The Chairman of the Committee on Standards of Official Conduct called up a

privileged resolution (adopting that committee's report constituting a reprimand of a Member for sexual misconduct), and that resolution was amended by adoption of a motion to recommit with instructions to impose the more severe punishment of censure on that Member, in lieu of reprimand. The House then adopted the resolution as amended censuring the Member (Rep. Daniel Crane) for sexual misconduct in a prior Congress, and directing that Member to present himself in the well of the House for the pronouncement of censure by the Speaker. 98-1, July 20, 1983, p. .... (H. Res. 266).

§ 2.23 The Committee on Standards of Official Conduct, which had recommended the expulsion from the House of a Member convicted since the convening of the current Congress of having accepted a bribe in the previous Congress in exchange for promises to perform legislative acts, for which the

committee could find no extenuating or mitigating circumstances, reported that conclusion to the House but indicated that its recommendation had been mooted by that Member's resignation from the House following the committee's vote. 97-1, May 20, 1981, p. 10309 (H. Rept. No. 97-110, in the matter of Rep. Raymond F. Lederer).

§ 2.24 In the Senate, the Chairman of the Senate Select Committee on Ethics, which had reported a resolution to expel a Member of the Senate (Harrison A. Williams), announced a schedule for presentation to Members of the Senate of tape recording evidence compiled by federal law enforcement officials (in the ABSCAM investigation) and considered by the committee in its hearings, in order to give Members of the Senate the opportunity to review the evidence before consideration of the expulsion resolution in the Senate. 97-1, Sept. 15, 1981, p. 20556.

## Chapter 13

# Powers and Prerogatives of the House

## A. INTRODUCTORY

### § 2. Military Interventions; War

§ 2.9 A resolution provided a modified "closed" rule for consideration of a joint resolution reported from the Committee on Foreign Affairs providing statutory authorization for the use of U.S. Armed Forces for peacekeeping in Lebanon, and privileged for consideration pursuant to section 6(b) of the War Powers Act. 98-1, Sept. 28, 1983, p. .... Subsequently, the House passed a Senate joint resolution providing statutory authorization for the continued use of U.S. forces in Lebanon for a multinational peacekeeping force in-

involved in hostilities, providing nonprivileged procedures for consideration of a measure introduced in either House to amend or repeal that authorization, and providing privileged procedures for consideration of such measures. 98-1, Sept. 29, 1983, p. ....

### § 3. Revenue and Appropriation Measures—Senate Bills

§ 3.15 The House returned to the Senate, as an invasion of its prerogative under article I section 7 of the Constitution to originate revenue measures, a Senate bill amending the Internal Revenue Code to repeal the withholding of federal tax from interest and dividend income and to amend the Trade Act affecting

imports, tariffs, and quotas. 98-1, May 17, 1983, p .....

§ 3.16 The House returned to the Senate, as an invasion of its prerogative under article I section 7 of the Constitution to originate revenue measures, a Senate bill extending certain excise tax rates. 99-1, Oct. 1, 1985, p 25418.

§ 3.17 The House returned to the Senate a Senate-passed bill providing for the sale of Conrail to the Norfolk Southern Railroad and containing provisions relating to the tax treatment of the sale of Conrail, notwithstanding inclusion in that bill of a "disclaimer" section requiring all revenue provisions therein to be contained in separate legislation originating in the House. 99-2, Sept. 25, 1986, p .....

## § 5. Enforcement of Subpenas; Contemptuous Conduct

§ 5.1 A committee report relating to the refusal of a witness to surrender documents in compliance with a subpoena issued by the committee or a subcommittee thereof is read in full when called up for consideration (unless the reading is dispensed with by unanimous consent), and it is then in order to offer a privileged resolution directing the Speaker to certify the contumacious conduct to the U.S. Attorney for prosecution under law. The resolution is debatable for one hour in the House, but the time may be extended by unanimous consent. 97-2, Dec. 16, 1982, p .....

§ 5.5 A report of a committee recommending that a witness be cited for contempt by the House is privileged for consideration at any time as a question of the privileges of the House, and the requirement of clause 2(l)(6) of Rule XI that a committee report be available for three legislative days does not apply. 97-2, Dec. 16, 1982, p .....

§ 5.14 For the first time in the history of the House of Representatives, the House cited an official of the executive branch for contempt,

by adopting a resolution directing the Speaker to certify to the U.S. Attorney the failure of Anne M. Gorsuch, Administrator of the Environmental Protection Agency, to furnish certain documents in the possession of that agency in compliance with a subpoena issued by a House subcommittee. 97-2, Dec. 16, 1982, p .....

In August 1983, the Chairman of the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation inserted in the Record a "Memorandum of Understanding" between the committee and the Department of Justice concerning documents subpoenaed from the Environmental Protection Agency by that subcommittee in the prior Congress, wherein it was agreed that the subcommittee in the subsequent Congress would gain full access to the subpoenaed documents under special arrangements separating "enforcement sensitive" documents and requiring a second-stage review process with only two staff present in addition to subcommittee members; and that upon satisfactory implementation of such procedures, the subcommittee chairman would endeavor to seek committee and House consideration of a resolution "purging" the EPA Administrator (Anne M. Gorsuch) of the contempt certification of the prior Congress. 98-1, Feb. 23, 1983, p .....

Subsequently, the House adopted a resolution reported from the Committee on Public Works and Transportation and called up as a question of the privileges of the House, reciting in its preamble an agreement between that committee and the executive branch providing access to documents subpoenaed in the prior Congress, the previous noncompliance for which the subpoenaed executive official had been certified in contempt in the prior Congress, and directing the Speaker to certify that subsequent agreement to the U.S. Attorney who had, until that time, refused to prosecute the contempt as a misdemeanor under federal law (2 USC § 194) based upon a claim of "executive privilege." (Note: In this regard, while the House



in a subsequent Congress may not be able to "purge" the contemptuous conduct of a witness already certified in contempt, by directing the U.S. Attorney to "withdraw" or "drop" the prosecution, the House may, upon report from its committee with respect to a subsequent agreement to produce the subpoenaed documents, certify that additional fact to the U.S. Attorney for possible presentation to the grand jury or as an indication that further proceedings are unnecessary.) In a related action, the House by resolution asserted that subsequent compliance with a subpoena following certification of the contempt did not preclude prosecution under federal law for the completed contemptuous conduct of an executive branch official, and that officials required by law to enforce the contempt statute were not relieved from the responsibility of presentation before a federal grand jury. 98-1, Aug. 3, 1983, p .....

§ 5.15 The House adopted a privileged resolution directing the Speaker to certify to the U.S. Attorney a report of the Committee on Energy and Commerce detailing the contemptuous conduct of a former official of the executive branch (Rita Lavelle) in refusing to obey a subpoena to testify before a subcommittee of said committee. 98-1, May 18, 1983, p .....

§ 5.16 A Senator inserted in the Record a decision of the U.S. Court of Appeals for the D.C. Circuit upholding the validity of § 705 of the Ethics in Government Act (2 USC § 288d), which authorizes the Senate legal counsel when directed by the Senate to bring a civil contempt action in a federal court in order to compel a witness to comply with Senate committee subpoenas. 97-1, May 14, 1981, p 9866. *Note:* Under this statute a witness serving a sentence as the result of a criminal conviction can have his sentence interrupted and can be required to serve an indefinite term for civil contempt, in order to compel his testimony before the Senate committee. In the House, where no such civil

contempt statute applies, the House may either certify the witness to the appropriate U.S. Attorney for possible indictment under the criminal contempt statute (2 USC § 192), or the House can proceed under so-called "common law contempt" precedents in an effort to detain the recalcitrant witness in the custody of the House until there is compliance.

§ 5.17 The Chairman of the Committee on Foreign Affairs filed from the floor a privileged report from that committee recommending that the House adopt a resolution directing the Speaker to certify to the United States Attorney the contempt of two individuals for refusing to answer questions before a subcommittee of that committee. The House agreed to the measure on separate roll call votes, a demand for a division of the question having been requested. 99-2, Feb. 27, 1986, p ..... [H. Res. 384, contempt proceedings against Ralph Bernstein and Joseph Bernstein].

## B. THE CONGRESSIONAL BUDGET PROCESS

### § 6. In General; Impoundment

§ 6.01 In 1985, sweeping changes were made in the procedures governing the consideration of budget measures. See 99-1, Oct. 11, 1985, p 27349 (H.J. Res. 372). These changes were brought about with the adoption of the Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. No. 99-177), also known as "Gramm-Rudman." This Act amended § 3 of the Congressional Budget Act to add definitions of "deficit," "maximum deficit amount," "off-budget Federal entity," "entitlement authority," and "credit authority." See § 201. Other changes include rewriting Title III of the Budget Act to alter the timetable for the congressional budget proc-



ess (§ 300), providing for annual adoption of a concurrent resolution on the budget and permitting a new point of order if the budget resolution exceeds the maximum deficit amount, with three-fifths vote required for a waiver (§ 301), requiring committees to file § 302(b) reports (§ 302(c)), and permitting a new point of order against legislation exceeding the appropriate § 302(b) allocation (§ 302(f)), requiring budget resolution adoption before consideration of a bill containing new budget authority with a May 15 exception for general appropriation bills (§ 303), directing the Appropriations Committee to report all appropriation bills by June 10 (§ 307), committee reports on bills providing new budget authority to compare levels in bill with § 302(b) allocations (§ 308), prohibiting adjournments of more than three days in July until regular appropriation bills have passed the House (§ 309), precluding amendments to reconciliation bills where the effect is to increase outlays above the level in the bill unless offsetting cuts also made (§ 310(d)), and prohibiting adjournments for more than three days in July until reconciliation is completed (§ 310(f)), prohibiting changes to social security in reconciliation (§ 310(g)), and precluding the breeching of budget authority or outlay ceilings or revenue floors, with certain exceptions (§ 311).

The 1985 statute also amended Title IV of the Congressional Budget Act to extend to conference reports the requirement that new spending authority be subject to appropriations (§ 401(a)), to require new credit authority to be subject to appropriation and acts eliminating the former authorization reporting date requirement (§ 402(a)), and to authorize the Speaker to appoint a Member User Group to review and advise on budget scorekeeping rules (§ 407).

Changes made in the House rules included the giving to the Committee on Government Operations specific jurisdiction over measures providing for off-budget treatment of federal agencies or programs (Rule X clause 1(j)),

giving the Rules Committee the special oversight function of review of the budget process (Rule X clause 3(i)), requiring standing committees to be elected by the seventh calendar day after the commencement of the Congress (Rule X clause 6(a)(1)), and permitting the Appropriations Committee to report rescissions without violating clause 2(b), Rule XXI and permitting it to transfer certain unexpended balances without violating clause 6, Rule XXI (reappropriations).

Generally the changes were effective on the date of enactment (Dec. 12, 1985) and applied to fiscal years beginning after Sept. 30, 1985 (fiscal 1986). The precedents cited in §§ 6-14 of the bound volume should be examined in the light of these changes.

§ 6.4 See also 97-1, Nov. 16, 1981, p 27598. The second sentence of clause 2(l)(6) of Rule XI, prohibiting the consideration of any measure or matter in the House reported by any committee (except the Committee on Rules) unless copies of the report and reported measure have been available to Members for at least three days, was held to prohibit the consideration of a concurrent resolution on the budget notwithstanding adoption by the House of a special order reported from the Committee on Rules waiving points of order under section 305(a)(1) of the Budget Act requiring a 10-day availability of the Budget Committee report, since that separate requirement of the House rule had not been specifically waived. 98-1, Mar. 22, 1983, p .....

§ 6.14 After opening statements in general debate on a concurrent resolution on the budget in the Committee of the Whole by the Chairman and the ranking minority member of the Committee on the Budget, section 305(a)(3) of the Budget Act provides for a period of up to four hours on economic goals and policies, which the Chair divides between the Chairman and ranking minority member of the Committee on the Budget or their designees (although division or allocation of such

time is not specifically provided for in the Budget Act). 98-1, Mar. 22, 1983, p ..... On a concurrent resolution on the budget not reported from the Committee on the Budget (to which the procedures for consideration provided in the Budget Act did not automatically apply since it was not reported), made in order for consideration by a special order providing for four and one-half hours of general debate, with one and one-half hours on economic goals and priorities to be equally divided and controlled as provided in section 305(a)(3) of the Budget Act, the Chairman of the Committee of the Whole advised that the one and one-half hours of debate on economic goals and priorities would follow opening statements in general debate. 98-2, Apr. 4, 1984, p .....

§ 6.17 A resolution was reported from the Committee on Rules, waiving all points of order against consideration of the "Omnibus Budget Reconciliation" bill containing provisions recommended by 14 standing committees and reported to the House "without substantive revision" by the Budget Committee, and providing a "modified closed rule" permitting only designated amendments if offered by the ranking minority member of the Budget Committee in a specified order. 97-1, June 25, 1981, p 14065.

§ 6.18 In the Senate, a motion to waive the provisions of the Budget Act against an amendment, pursuant to section 904(b) of the act, is privileged and is in order at any time while the amendment is pending. 98-2, June 13, 1984, p ..... In the Senate, a point of order against an amendment based on a provision of the Budget Act, or a motion to waive a provision of the Budget Act against an amendment, is in order while the amendment is pending and after it has been debated. Such a motion is privileged for consideration, is debatable, and is subject to the motion to lay on the table. 98-1, Mar. 22, 1983, p .....

§ 6.19 In February 1986, pursuant to § 252(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985, and pursuant to special authority of the House, the Speaker referred to all legislative committees of the House the President's message transmitting the sequestration order for fiscal year 1986. 99-2, Feb. 4, 1986, p ..... However, in the case of *Bowsher v Synar*, determined on July 7, 1986, the Supreme Court declared the automatic sequestration process in "Gramm-Rudman" unconstitutional, since delegating executive powers to the Comptroller General, who is not an agent of the executive branch. The Supreme Court declared the fiscal year 1986 sequestration null and void, effective 60 days after the judgment. The Supreme Court having invalidated the reporting procedures of § 251 of Pub. L. No. 99-177 ("Gramm-Rudman"), the Speaker on July 14 announced, under the "fallback" procedures of that Act, the creation of the Temporary Joint Committee on Deficit Reduction composed of the entire membership of the Budget Committees of the House and the Senate. 99-2, July 14, 1986, p ..... This action was taken pursuant to § 274(f) of Pub. L. No. 99-177, which provides for the establishment of a Temporary Joint Committee on Deficit Reduction upon U.S. Supreme Court invalidation of any reporting procedure for the issuance of Presidential sequestration orders, to receive a report from the Directors of the Office of Management and Budget and of the Congressional Budget Office and to report within five days after receipt a joint resolution to both Houses enacting the Presidential sequestration order. 99-2, July 16, 1986, p ..... On July 17, 1986, the House agreed to a joint resolution, called up by the Majority Leader pursuant to a special order, ratifying the Feb. 1, 1986, sequestration order of the President. 99-2, p .....

## § 7. Committee Jurisdiction; Recommendations and Reports

§ 7.2 In the Senate, the Presiding Officer ruled that an amendment (to comprehensive social security legislation passed by the House) removing social security trust fund outlays and receipts from the unified federal budget, and establishing separate aggregate and functional categories in all concurrent resolutions on the budget for social security trust funds for future fiscal years (proposed to be enacted pursuant to the rule-making authority of the House and the Senate), was a matter within the jurisdiction of the Senate Committee on the Budget and violated section 306 of the Budget Act, prohibiting consideration of such a matter unless reported by that committee. 98-1, Mar. 22, 1983, p .....

*Note:* Such a provision would be considered within the jurisdiction of the Committee on Rules, not the Committee on the Budget, in the House.

§ 7.5 Pursuant to § 301(c) of the Congressional Budget Act as amended by Pub. L. No. 99-177, the Speaker must refer concurrent resolutions on the budget reported from the Budget Committee sequentially to the Rules Committee for not more than five legislative days if it includes any procedure or matter having the effect of changing any rule of the House. 99-2, May 13, 1986, p .....

## § 8. Resolutions on the Budget

§ 8.4 Instance where, following adoption of a concurrent resolution on the budget which had not been reported from the Committee on the Budget, the Speaker without objection laid on the table a motion to reconsider; the procedures for consideration of a budget resolution, including the provision in section 305(a)(2) that a motion to reconsider does not apply, only relate to a privileged budget resolution which has been reported from committee. 98-2, Apr. 5, 1984, p .....

§ 8.8 In 1983, the House (and the Senate) adopted a concurrent resolution on the budget, revising and replacing the congressional budget for fiscal year 1983 and setting forth the first concurrent resolution on the budget for fiscal year 1984. 98-1, June 23, 1983, p .....

§ 8.9 While the "reconciliation" process suggested in Title III of the Congressional Budget Act anticipates final congressional action on the first concurrent resolution on the budget prior to committee recommendations and House consideration of spending savings mandated therein, the House may, by way of a special order reported from the Committee on Rules, initiate House consideration of legislation containing spending savings informally recommended by instructed committees following adoption of the House version of reconciliation instructions and prior to final action on the budget resolution. In this instance, the resolution provided a "modified closed" rule for consideration of an unreported bill referred to six committees instructed in the House-passed budget resolution for fiscal year 1985 to report reconciliation spending savings. 98-2, Apr. 12, 1984, p .....

For proceedings and rulings in the Senate relative to the privilege and consideration of multi-year reconciliation instructions, see 97-1, Mar. 26, 1981, p 5468.

§ 8.10 Instance where, the two Houses having adopted different versions of a first concurrent resolution on the budget containing separate reconciliation instructions on revenue and spending, and the Senate having amended a House-passed revenue reconciliation bill to include both its revenue and spending reduction reconciliation provisions, the House, by unanimous consent, amended the Senate amendment to reincorporate both the original revenue bill as title I and its separately passed spending reduction reconciliation bill as title II, and requested a conference thereon. 98-2, May 23, 1984, p .....



§ 8.11 By unanimous consent, the House agreed to consider a Senate second concurrent resolution on the budget in the House, in lieu of a similar House concurrent resolution made in order by a special order, under the terms of that special order. In this instance, the House agreed to the Senate resolution without amendment, thereby "reaffirming" the first concurrent budget resolution for that fiscal year and converting the target levels of new budget authority, budget outlays, and revenue receipts into budget ceilings and revenue floors pursuant to section 310 of the Budget Act. 97-1, Dec. 10, 1981, p 30592.

§ 8.12 The Senate and the House adopted a concurrent resolution on the budget which revised the congressional budget for fiscal year 1984 and first set forth the congressional budget for fiscal year 1985, and which included a nonbinding statement of policy that revenue raised for fiscal years 1985 through 1987 be used to reduce the deficit except to the extent specified in revenue legislation, but that increased funding for education, environmental protection, health research, and certain low-income programs would be appropriate. 98-2, Oct. 1, 1984, p .....

§ 8.13 The House and then the Senate adopted a concurrent resolution on the budget which first established a binding congressional budget for fiscal 1987 (as required by § 311 of the Congressional Budget Act as amended by Pub. L. No. 99-177—the Balanced Budget and Emergency Deficit Control Act of 1985). This resolution included reconciliation instructions directing ten House and nine Senate committees to report decreases in budget authority, outlays and/or entitlements by July 25 for the ensuing three fiscal years. 99-2, June 26, 1986, p .....

§ 8.14 The date of final House action in adopting the conference report on the concurrent resolution on the budget, rather than the date of final Senate action (when the Senate acts later) or the date of receipt of a

message from the Senate informing the House of final Senate action, is the appropriate date under Rule XLIX for deeming the House to have engrossed and passed a joint resolution increasing the statutory limit on the public debt, since that rule provides that the vote by which the concurrent resolution is finally adopted *in the House* shall be deemed to have been a vote in favor of such joint resolution upon final passage (the joint resolution is not messaged to the Senate, however, until both Houses have agreed to the conference report or the concurrent resolution, if there is no conference). 99-2, July 14, 1986, p .....

## § 9. — Amendments to Resolutions

§ 9.12 Following adoption of a resolution reported from the Committee on Rules providing for consideration of eight amendments in the nature of a substitute to a concurrent resolution on the budget, the floor manager of the special order submitted for printing in the Record estimates prepared by the Congressional Budget Office of each substitute, based on common economic assumptions. 98-2, Apr. 4, 1984, p .....

§ 9.13 Where § 310(b)(2) of the Budget Act required the Committee on the Budget to report to the House without substantive revision recommendations from committees to achieve budget savings as mandated by a concurrent resolution on the budget, the Committee on Rules reported a "modified closed" rule containing self-executing adoption of a group of amendments both inserting additional savings provisions not recommended by committees and striking out other "extraneous" recommended provisions not achieving budget savings. 99-2, Sept. 24, 1986, p .....

## § 10. — Conference Reports

§ 10.7 By unanimous consent, tables reflecting the "crosswalk" allocations to committees of amounts of budget authority, budget out-



lays, and entitlement authority for the ensuing fiscal year pursuant to section 302(a) of the Budget Act reflecting the conference agreements on the first budget resolution for fiscal year 1982, were printed in the Record, and were considered as meeting the requirements of section 302(a) (that such allocations be printed in the joint statement of managers on a concurrent resolution on the budget). In this instance, by unanimous consent, the Chairman of the Committee on the Budget inserted in the Record an explanation of that committee's scorekeeping procedures with respect to spending targets in the first concurrent resolution on the budget for the ensuing fiscal year and to enforcement procedures for bills exceeding allocations of budget authority to committees. 97-1, May 28, 1981, p 10916.

§ 10.8 The House and then the Senate adopted a concurrent resolution on the budget authorizing a report to be filed by the Chairman of the House Budget Committee by a date certain to contain allocations of new budget authority and outlays required by § 302(a) of the Budget Act to be included in the joint statement of managers on the budget resolution (where conferees did not have time to prepare allocation prior to filing of conference report). 99-2, June 26, 1986 p ..... (S. Con. Res. 120, the first concurrent resolution on the budget for fiscal 1987).

## **§ 11. First Budget Resolution; Relationship to Consideration of Bills Providing New Budget Authority, Revenue Changes, and New Spending Authority**

§ 11.2 Section 303(a)(1) of the Budget Act prohibits consideration of an amendment granting new budget authority for a fiscal year for which the first budget resolution has not been adopted by both Houses. 98-2, Aug. 1, 1984, p ..... In one instance, the Chair overruled a point of order under sections 303(a)(4) and 401(c)(2), of the Budget Act

against an amendment, offered to an omnibus social services and education authorization bill reported from the Committee on Education and Labor, providing that if the sums actually appropriated for any fiscal year to fund the program are insufficient to pay the amount of the state entitlements, then the allocation to each state be ratably reduced, since the provision for ratably reduction in payments based on the amounts subsequently appropriated removed the program from the definition of new spending (entitlement) authority under those sections. 98-1, Sept. 13, 1983, p .....

§ 11.4 The House having agreed to a Senate amendment providing new spending (entitlement) authority for the ensuing fiscal year exceeding the allocation, made by the joint statement accompanying the conference report on the first concurrent resolution on the budget pursuant to section 302 of the Budget Act, to any House committee, the House by unanimous consent authorized the Clerk to enroll the bill notwithstanding the procedure in that budget resolution prohibiting enrollment of bills containing such excessive new spending authority until final adoption of the second budget resolution (where the appropriate allocation to House committee[s] but not to Senate committees was exceeded). 97-1, Nov. 22, 1981, p 28768.

§ 11.7 Section 303 of the Budget Act separately prohibits amendments providing new budget authority for a fiscal year prior to adoption of the first concurrent resolution on the budget for that year, notwithstanding a waiver of points of order against consideration of the bill containing new budget authority which the amendment would propose to increase. 99-1, July 17, 1985, p 19435.

§ 11.8 An amendment imposing a fee on electric utilities for each kilowatt hour of electric energy generated was held to constitute a "revenue" provision under § 303(a)(3) of the

Budget Act which prohibits consideration of revenue provisions becoming effective in the ensuing fiscal year prior to adoption of the budget concurrent resolution for that year. 99-1, July 23, 1985, p 20052.

§ 11.9 Section 302(f) of the Budget Act of 1974 prohibits the consideration of any amendment providing new budget authority which would cause the reporting committee's subcommittee allocation of such budget authority, pursuant to a budget resolution, to be exceeded. Thus, where the report of the Committee on Appropriations indicates that an appropriation bill is \$24 million below the subcommittee allocation of new discretionary budget authority, an amendment whose net effect would increase new discretionary budget authority in excess of that amount is subject to a point of order under § 302(f) of the Budget Act. 99-2, July 30, 1986, p .....

§ 11.10 Amendments to an appropriation bill, making a series of figure changes intended to offset each other and considered en bloc by unanimous consent, are subject to points of order under § 302(f) of the Budget Act where the intended reductions in new discretionary budget authority fail to offset increases in such authority, so that the net effect of the amendments is to cause the bill to exceed the appropriate allocation, made pursuant to § 302(b) for the fiscal year, of new discretionary budget authority. 99-2, July 30, 1986, p .....

§ 11.11 New discretionary budget (contract) authority involving outlays from the Highway Trust Fund is reported from and scored against the allocation granted to the Committee on Public Works and Transportation in the joint statement of managers on the concurrent resolution on the budget (since it is the authorization bill reported from that committee, and not the subsequent liquidating cash reported from the Committee on Appropriations, which contains "the authority to enter into obligations which will result in im-

mediate or future outlays"—the definition of new budget authority in § 3(a)(2) of the Budget Act) so that reductions in liquidating cash contained in a general appropriation bill do not reduce that particular new discretionary budget authority and cannot be used to offset increases in other portions of the bill. 99-2, July 30, 1986, p .....

## § 12. Waiving Points of Order Against Future-year Spending or Revenue Legislation

§ 12.1 See 98-1, July 14, 1983, p ..... [H. Res. 208, providing for consideration of H.R. 2350, Health Research Extension Act of 1983]. For the first example of a special order providing general waiver of section 303(a) of the Budget Act to permit consideration of *all* general appropriation bills prior to final adoption of the first concurrent resolution on the budget for the ensuing year, see 98-2, May 22, 1984, p .....

§ 12.7 By resolution, the House has waived points of order against consideration of a general appropriations bill before adoption of a first budget resolution for the fiscal year in question. 98-1, June 8, 1983, p .....; 98-1, June 21, 1983, p .....; 98-1, June 22, 1983, p .....

## § 13. Legislation Authorizing New Budget Authority—May 15 Reporting Date

§ 13.1 By unanimous consent, the House extended until 5 p.m. on May 19, 1981, the time for all committees to file reports on bills authorizing enactment of new budget authority for fiscal 1982, section 402(a) of the Budget Act requiring filing by May 15 of each year. 97-1, May 13, 1981, p 9675.

§ 13.2 97-1, Nov. 19, 1981, p 28195; 98-1, June 9, 1983, p .....; 98-2, Sept. 5, 1984, p .....

§ 13.8 The Chair overruled a point of order under section 402(a) of the Budget Act against an amendment, offered to an omnibus social services and education authorization bill reported from the Committee on Education and Labor, providing for payments to the states for immigrant children education based on a formula and requiring those payments to be made, but also containing an authorization for appropriations for fiscal years 1984, 1985, and 1986, since section 402(a), requiring bills containing authorization of new budget authority to be reported by May 15 preceding the effective fiscal year, only prohibits initial consideration of bills containing such provisions in the introduced text, and not consideration of amendments containing such authorizations or of the bill as so amended. 98-1, Sept. 13, 1983, p .....

§ 13.9 *Note:* Section 402(a) of the Budget Act was rewritten by § 212 of Pub. L. No. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985, to repeal the May 15 reporting requirement and to replace it with a new point of order against bills providing credit authority not subject to appropriations. See 99-2, Feb. 4, 1986, p .....

#### § 14. Measures Containing New Entitlement Authority

§ 14.5 A provision amending title 5 of the United States Code to provide that certain federal employees "shall be paid" premium pay and to provide that former federal employees receiving military or civilian annuities "shall be entitled" to continue to receive the full amount of such annuity upon reemployment notwithstanding contrary provisions of law, constitutes new spending (entitlement) authority within the definition of section 401(c)(2)(C) of the Budget Act. 97-1, Nov. 22, 1981, p 28758.

§ 14.6 Section 401(b)(1) of the Budget Act prohibits consideration of (motions to concur in) Senate amendments providing new spend-

ing (entitlement) authority effective before the first day of the fiscal year which begins during the calendar year in which the bill was reported. In this instance, a Senate amendment providing new spending (entitlement) authority for adjustment assistance under the Trade Act of 1974 was conceded to violate § 401(b)(1) of the Budget Act and a motion to concur was ruled out on a point of order. 99-2, June 26, 1986, p .....

#### § 15. Entitlement Legislation Referred to Committee on Appropriations

§ 15.6 When a bill has been reported from committee and placed on the Union Calendar prior to the final adoption by both Houses of a first concurrent resolution on the budget and the publication by the conferees of committee allocations of new entitlement authority, and the new entitlement authority provided by the bill exceeds the amount of such authority allocated to the committee for the fiscal year in question, the Speaker may discharge the bill from the Union Calendar and refer it to the Committee on Appropriations for not to exceed 15 legislative days pursuant to section 401(b) of the Budget Act. 97-1, May 21, 1981, p 10622.

#### § 16. Measures Containing Contract or Borrowing Authority Not Subject to Advance Appropriations

§ 16.4 Instance where the manager of a special rule offered an amendment to it to waive all points of order against consideration of a bill containing new spending (contract) authority not subject to the appropriations process. 98-2, Sept. 5, 1984, p .....

**§ 17. Waiving Points of Order Against Measures Exceeding Budget Authority or Reducing Revenue Below Levels Established in Second Concurrent Resolution on Budget**

§ 17.1 Pursuant to section 311(b) of the Budget Act, the Committees on the Budget of each House must estimate budget outlays and revenues to be received during a fiscal year for submission to the presiding officers of each House in the enforcement of section 311(a) prohibiting consideration of bills or amendments breaching the ceilings and floors contained in a second or subsequent concurrent resolution on the budget. In this instance, the Chairman of the House Committee on the Budget inserted in the *Congressional Record* a status report on the congressional budget for fiscal year 1981, based on the second budget resolution for that year and using the economic assumptions specified in the conference report thereon. 97-1, June 4, 1981, p 11628.

§ 17.3 By unanimous consent, the House agreed to consider a conference report and amendments in disagreement on an appropriation bill containing new budget authority and resulting in outlays in excess of total levels in the second concurrent resolution on the budget for the present fiscal year which had already been exceeded. 98-1, Mar. 22, 1983, p .....

§ 17.5 Section 311(a) of the Budget Act—precluding any amendment “providing additional new budget authority” which would cause the appropriate level of total new budget authority or budget outlays to be exceeded—has been interpreted to prohibit consideration of an amendment striking out a rescission of existing budget authority where its effect is to increase the net total new budget authority in the bill (an amount calculated by offsetting rescissions in the bill against new appropriations resulting in a further breach of the ceiling on budget outlays in the applicable budget resolution). 97-1, May 12, 1981, p 9314.

§ 17.6 While the prohibitions against consideration of bills, resolutions, or amendments providing new budget authority or new spending authority causing the appropriate level of total new budget authority or total budget outlays to be exceeded under section 311 of the Budget Act are normally triggered by the adoption of the second budget resolution, the operation of section 311 may be modified by “special procedures” embodied in the first budget resolution. The special procedures of the first budget resolution precluded a point of order based on section 311, even though the total level of outlays had been breached, since the scoring mechanism established by the first budget resolution related only to discretionary budget authority. 98-2, Mar. 6, 1984, p .....



## Chapter 14

## Impeachment Powers

**§ 1. In General; Grounds for Impeachment**

§ 1.6 In 1986, the House agreed to a resolution impeaching a federal district judge, the first time it had done so since 1936. The resolution, reported from the Committee on the Judiciary and called up as a question of the privileges of the House, impeached Harry E. Claiborne, Judge of the United States District Court for the District of Nevada, for high crimes and misdemeanors. The resolution contained four articles of impeachment (two willfully false filings of income tax returns, conviction on federal felony charges for false filing, and betraying trust and bringing disrepute to courts). 99-2, July 22, 1986, p ..... (H. Res. 461). *Note:* Judge Claiborne had been convicted of two counts of falsifying federal income tax and had been sentenced in October 1984 to a prison term of two years on each count. After his final appeal was denied by the Supreme Court in April 1986, he began serving his sentence on May 16, 1986. Since he refused to resign he was still receiving his judicial salary while in prison and, absent impeachment and conviction, could have resumed the bench upon completing his sentence.

On Aug. 6, 1986, the House received a message from the Senate informing the House that the Senate was ready to receive the managers of the House for the purpose of exhibiting articles of impeachment against Judge Claiborne. 99-2, p .....

On Aug. 15, the House was informed by the Senate that it had passed two resolutions relating to the impeachment trial of Judge Claiborne, one issuing a summons for his appearance, giving the House managers until Sept. 15 to file a replication, and providing

for publication of the respondent's answer and the replication in the Senate Journal and *Congressional Record*, and one directing the Presiding Officer of the Senate to appoint a committee of 12 Senators to take evidence and testimony and to report to the Senate thereon. 99-2, 1986, p ..... *Note:* This was the first occasion on which the Senate has directed the appointment of a committee of Senators to take evidence and testimony preparatory to an impeachment trial in the full Senate. The trial of Judge Claiborne on the Senate floor was relatively brief, based on the evidence compiled in the committee, whose proceedings were televised.

On Oct. 6, pursuant to a unanimous-consent request, the Senate agreed to proceed on the following day as a court of impeachment on the articles of impeachment against Judge Claiborne, as follows: (1) convening as a court of impeachment at a time certain; (2) ascertainment of a quorum, with continuing authority of the Chair to ascertain a quorum, followed by two hours of debate, equally divided between counsel for the respondent and the House managers, on the pending preliminary motions; (3) disposition of the preliminary motions following a recess; (4) if the disposition of said motions indicates the Senate is ready to hear final arguments, final arguments to proceed until a time certain equally divided and controlled by counsel for the respondent and the House managers. 99-2, 1986, p .....

On Oct. 7, pursuant to its previous order, the Senate convened at a time certain as a court of impeachment in the impeachment of Judge Claiborne, ascertained the presence of a quorum, and heard arguments on the pending preliminary motions offered by the re-

spondent: (1) to postpone the impeachment trial; (2) to declare Rule XI of the Senate Rules for Impeachment Trials (authorizing the appointment of a committee to hear testimony and collect evidence) unconstitutional, to request a full and fair impeachment trial before the entire Senate; and (3) to designate proof beyond a reasonable doubt as the standard of proof in an impeachment trial. 99-2, 1986, p ..... *Note:* Under Rule XI of the Senate Rules for Impeachment Trials, evidence and testimony received by a committee of Senators appointed pursuant to that rule is considered in the impeachment trial to all intents and purposes as having been received and taken before the Senate, subject to the right of the Senate to determine competency, relevancy, and materiality, and subject to the right of the Senate to send for witnesses and hear witnesses' testimony before the full Senate, or to order that an entire trial be conducted in the Senate.

In the impeachment trial of Judge Claiborne, the Senate disposed of preliminary motions as follows: postponed until the conclusion of final arguments disposition of the motions to declare Rule XI unconstitutional, and requesting a full trial before the Senate, and to declare proof beyond a reasonable doubt as the standard of proof in an impeachment trial; and rejected, by voice vote, a motion to postpone the impeachment trial before the Senate. The Senate then conducted final arguments until a time certain on the question of conviction, with the time equally divided among the parties. 99-2, Oct. 7, 1986, p .....

Under Rule XXII of the Senate Rules for Impeachment Trials, the managers on the part of the House are entitled to open and close final arguments. The respondent in an impeachment trial has the right to address the Senate in his own behalf. 99-2, Oct. 7, 1986, p .....

On Oct. 8, the Senate having disposed of all preliminary motions and having heard final arguments in the impeachment trial of Judge Claiborne, the Senate Majority Leader

announced that on the following day, the Senate would conduct deliberations on the articles of impeachment (in executive session), with five hours of debate to be divided between the Majority and Minority Leaders or their designees, and that the votes on each of the four articles of impeachment would then occur in open session. 99-2, 1986, p .....

On Oct. 9, having heard final arguments and disposed of preliminary motions on the previous day, the Senate proceeded into closed session for final deliberation on the articles of impeachment against Judge Claiborne, reconvened in open session, and on roll call votes convicted the respondent on three of the four articles of impeachment, by a two-thirds vote as required by the U.S. Constitution. The Senate having convicted a federal officer on articles of impeachment, the Chair directed judgment of removal from office to be entered. 99-2, 1986, p .....

## § 2. Impeachment Charges as Privileged; Referral to Committee

§ 2.6 A resolution impeaching a federal judge is presented as a question of the privileges of the House (under Rule IX and the Constitution). 99-2, July 22, 1986, p ..... (H. Res. 461).

§ 2.7 Questions incidental to a resolution of impeachment adopted by the House include: (1) appointing House managers to conduct the trial and directing them to present the articles to the Senate; (2) directing a message to be sent to the Senate of the impeachment action; and (3) empowering the House managers to employ assistants and to incur expenses from the contingent fund and to subpoena persons and papers, and file subsequent pleadings with the Secretary of the Senate. These matters are called up as questions of the privileges of the House (although not reported by the committee reporting the impeachment resolution). 99-2, July 22, 1986,

p ..... (H. Res. 501). In this instance, by unanimous consent, the House considered en bloc three resolutions raising questions of the

privileges of the House incidental to articles of impeachment already adopted by the House.

## Chapter 15

# Resolutions of Inquiry

### § 1. In General

§ 1.2 A report on a resolution of inquiry, even with an adverse recommendation, is filed from the floor as privileged. 98-2, Apr. 9, 1984, p ..... [H. Res. 464, directing the Secretary of State to provide information concerning the slaying of American churchwomen in El Salvador]; 98-2, Apr. 25, 1984, p..... [H. Res. 467, resolution of inquiry concerning the Central Intelligence Agency and "death squads" in El Salvador].

§ 1.6 97-2, Aug. 3, 1982, p 18947 [H. Res. 512, directing the Secretary of Defense to furnish information on C-5B aircraft to the House].

§ 1.7 *Delete and Insert:* By unanimous consent, the House may consider a resolution of inquiry, reported as privileged, immediately upon filing of the report, thereby waiving the three-day availability rule (clause 2(1)(6), Rule XI). 99-2, May 7, 1986, p ..... [H. Res. 395, resolutions of inquiry requesting documents on use of funds for humanitarian assist-

ance for Nicaraguan democratic resistance]. Thus, in one instance, the Chairman of the Committee on Armed Services reported adversely a privileged resolution of inquiry, then obtained unanimous consent for its immediate consideration (thereby waiving the three-day availability requirement) and then moved to lay the resolution on the table. 93-1, May 9, 1973, pp 14990-94 [H. Res. 379, directing the Secretary of Defense to furnish information to the House of Representatives].

§ 1.13 While a motion to discharge a committee from an unreported resolution of inquiry is privileged after the number of legislative days specified in clause 5 of Rule XXII, the House may, by unanimous consent, extend the period for committee consideration beyond that time. 97-2, July 12, 1982, p 15773 [H. Res. 512, requesting the Secretary of Defense to furnish information to the House relative to the C-5B aircraft]. *Note:* This is the first instance of a unanimous-consent request to delay a privileged motion to discharge a resolution of inquiry.



## Chapter 16

## Introduction and Reference of Bills

## § 2. Sponsorship

§ 2.3 *Delete and Insert*: Consistent with Rule XXII, clause 4(b)(1), under which only the chief sponsor of a bill may add cosponsors, the Chair may decline to entertain a unanimous-consent request on the floor by a Member not the chief sponsor to add all Members as cosponsors of a bill under consideration, permitting instead a listing in the Record. 99-1, Dec. 18, 1985, p ..... However, by unanimous consent, a Member may add his own name as a cosponsor of an unreported bill where the original sponsor, normally required by clause 4(b)(1) of Rule XXII to sign the request for additional cosponsorships, is no longer a Member of the House. 98-1, Aug. 4, 1983, p .....

§ 2.4 By unanimous consent, the original sponsor of a resolution was permitted to delete the name of a cosponsor inadvertently listed by him [where clause 4(b)(2) of Rule XXII only permits the cosponsoring Member himself to request unanimous consent for deletion]. 97-2, Feb. 9, 1982. In a similar instance, the primary sponsor of a bill obtained unanimous consent to delete the names of several cosponsors although clause 4(a)(4) of Rule XXII requires each cosponsor to separately obtain that consent. 97-1, Feb. 4, 1981, p 1397. *Note*: In this instance, the Speaker permitted the chief sponsor to make the request where the eight cosponsors erroneously listed could not be gathered to make separate requests.

§ 2.5 While clause 4(b)(1) of Rule XXII permits Members to be added as cosponsors of public bills and resolutions only prior to final committee reporting to the House, the House by unanimous consent permitted additional

Members who had cosponsored an identical resolution to be listed as cosponsors of another unreported resolution which had been agreed to by the House on the preceding day, said request not to be considered a precedent for waiving the cutoff time for adding cosponsors. 97-2, Apr. 1, 1982, p 6340.

§ 2.6 By unanimous consent, a Member was added as a cosponsor of a bill introduced previously and the Record of the earlier date corrected to indicate his inadvertent omission as an original cosponsor. 97-1, June 22, 1981, p 8388.

§ 2.7 While clause 4 of Rule XXII precludes formally adding cosponsors to a previously reported bill, it is permissible, by unanimous consent, to list additional Members informally as cosponsors in the Record. 98-2, Mar. 8, 1984, p .....

§ 2.8 Pursuant to clause 4, Rule XXII, which permits an original sponsor to add additional cosponsors to a bill for entry in the Journal and Record *as of a subsequent date*, the Chair will not entertain a unanimous-consent request to list an additional cosponsor as of the date of original introduction where his name had been inadvertently omitted by the original sponsor. 99-1, Jan. 28, 1985, p 1141; 99-1, May 23, 1985, p 13421.

§ 2.9 Pursuant to clause 4(b)(2), Rule XXII, unanimous-consent requests of Members to delete their names as cosponsors of bills may not be entertained by the Chair after the last committee authorized to consider the bill has filed its report in the House. 99-1, Oct. 8, 1985, p 26668. But a Member may request unanimous consent that his name be removed as a cosponsor of an unreported bill during



consideration of that bill under suspension of the rules and prior to a final vote thereon. Clause 4(b) of Rule XXII only precludes such requests after bills have been reported. 99-2, June 9, 1986, p .....

### § 3. Reference

§ 3.10 Pursuant to clause 2 of Rule XXIV, the Speaker has discretionary authority to refer from the Speaker's table messages from the Senate (including Senate amendments to House-passed bills) to standing committees under any conditions permitted by clause 5 of Rule X for the referral of introduced bills, including the imposition of a time limitation for consideration only of that portion (not germane to the House bill) within that committee's jurisdiction, while declining to refer the remainder of the Senate amendment to the House committee which had reported the House-passed bill. 97-1, Mar. 26, 1981, p 5397. *Note:* This referral represented the first recent instance in which the Speaker had utilized his discretionary authority under clause 2 of Rule XXIV to refer a Senate amendment to a House committee, and the first instance of splitting off a nongermane portion of a Senate amendment in the nature of a substitute and referring only that portion to the appropriate House committee for a time certain.

### § 4. — Private Bills

§ 4.3 The fact that the Committee on the Judiciary had in a prior Congress refused to consider a private bill referred to it pursuant to a committee rule which precluded reconsideration of a private claim absent new evidence, does not mean that an identical bill cannot be reintroduced in a subsequent Congress unless that bill directly changes a military record, as it is only the House rule, and not a committee rule relating to committee reconsideration, which governs introduction and consideration of the bill in the House. 98-2, Sept. 18, 1984, p .....

### § 5. Joint, Divided, and Sequential Referrals

§ 5.1 The Speaker reiterated his policy, first announced in 1983, that introduced bills would be referred to committees on a joint or sequential basis, with the possible designation of a "primary" committee. 99-1, Jan. 3, 1985, p 420. Thus, the Speaker may refer a bill jointly to two committees and may impose a time limit and a delineation of portions of the bill on one of the committees. 99-1, July 31, 1985, p 21936. And the Speaker may jointly refer designated portions of an introduced bill to one committee while referring the entire bill to another committee. 97-2, Mar. 3, 1982, p 3155.

§ 5.3 Instance where the Speaker sequentially referred a bill to a committee solely for consideration of that portion of the bill and initial committees' amendments relating to a single subject described in the referral. 97-1, June 2, 1981, p 11201.

§ 5.10 Clause 5 of Rule X, which requires the Speaker to the maximum extent feasible to refer bills, resolutions, and other matter to all committees having jurisdiction over any matter therein, permits the Speaker to base a sequential referral upon the text of a committee amendment. In 1981, at the beginning of the 97th Congress, the Speaker announced that pursuant to clause 5 of Rule X, he would base his referral decisions on the subject matter contained in committee amendments reported from the initial committee, as well as on the text of the introduced measure. 97-1, Jan. 5, 1981, pp 115, 116. Since that time, the Speaker has followed this procedure in many instances. He has divided for sequential referral to several committees for a time certain designated portions of an amendment recommended by the primary reporting committee (98-2, Mar. 8, 1984, p .....); sequentially referred separate bills initially reported by different committees to which jointly referred,

for consideration of the initial committees' amendments (97-2, Sept. 9, 1982, p 23024; sequentially referred a reported bill to another committee solely for consideration of provisions of the first committee's amendment within its jurisdiction, although such jurisdiction did not extend to the original bill (97-2, Apr. 5, 1982, p 6580); sequentially referred to another committee a bill which had originally been referred to the Union Calendar, for a time certain solely for consideration of designated sections of the initial committee's amendment (97-2, May 21, 1982, p 11169); sequentially referred a reported bill to two subsequent committees for different periods of time solely for consideration of designated sections of initial committee's recommended amendment in the nature of a substitute (97-2, May 18, 1982, p 10418). The Speaker may also sequentially refer to a third committee a (nongermane) portion of an amendment recommended by one of the committees to which a bill has been initially jointly referred, prior to a report from the other committee, and solely for consideration of that portion of the amendment. 97-2, Mar. 16, 1982, p 4271. And the Speaker may sequentially refer a bill, which has been jointly referred to several committees and reported only by one committee at any time after the reporting of the first committee's amendment. 97-2, June 17, 1982, p 14069. He may sequentially refer a bill to more than one committee for different time periods for consideration of such provisions of the primary committee's amendment as fall within their respective jurisdictions. 99-1, Aug. 1, 1985, p 22681. Likewise, he may sequentially refer to a committee a portion of an amendment in the nature of a substitute recommended by one of two committees to which the bill had been jointly referred, after the second committee reports the bill. 99-1, May 22, 1985, p 13126.

§ 5.12 (23) A bill initially reported by the Committee on Armed Services for a time certain was referred to the Committee on Gov-

ernment Operations for consideration of provisions relating to federal procurement policy and to the Committee on the Judiciary for the consideration of a provision involving the conferral of law enforcement authority on military personnel ("posse comitatus"). 97-1, May 19, 1981, p 10266.

§ 5.12 (24) Pursuant to clause 5 of Rule X, the Speaker sequentially referred to the Committee on Science and Technology for a period of three days a bill reported from the Committee on Energy and Commerce and sequentially referred to the Committee on Interior and Insular Affairs authorizing appropriations for the Nuclear Regulatory Commission, only for consideration of such portions of the bill and amendment authorizing funds for the development of a long-term nuclear powerplant safety systems plan as fell within that committee's jurisdiction over energy research and development. 97-1, June 2, 1981, p 11201.

§ 5.12 (25) Pursuant to clause 5 of Rule X, the Speaker sequentially referred to the Committee on Rules, for one calendar day, a concurrent resolution on the budget reported from the Committee on the Budget which contained provisions modifying procedures under the House rules and under the Congressional Budget Act of 1974. 98-2, Apr. 2, 1984, p .....

§ 5.12 (26) Pursuant to clause 5, Rule X, the Speaker sequentially referred a trade bill reported from the Committee on Ways and Means to the Committee on Energy and Commerce and the Committee on the Judiciary for two days for consideration of specified provisions in the bill within their respective jurisdictions. 99-2, May 7, 1986, p .....

§ 5.12 (27) The Speaker pro tempore referred to the Committees on Appropriations, Foreign Affairs, and Armed Services, and to the Permanent Select Committee on Intelligence a message from the President requesting the

transfer of funds, previously appropriated to the Department of Defense, for assistance to the Nicaraguan democratic resistance. 99-2, Feb. 26, 1986, p .....

§ 5.17 Pursuant to clause 5 of Rule X, the Speaker discharged from the Union Calendar and sequentially referred to the Committee on Ways and Means without time limit (at the end of the second session) a bill reported from the Committee on Education and Labor relating to state and local public employee retirement systems. 98-2, Oct. 5, 1984, p .....

§ 5.18 At the opening of the 98th Congress, the Speaker announced that pursuant to clause 5 of Rule X and clause 2 of Rule XXIV, he would exercise his discretionary authority to refer nongermane Senate amendments to House bills to committees with jurisdiction over the Senate amendments. 98-1, Jan. 3, 1983, p ..... The same policy was announced to the 99th Congress. 99-1, Jan. 3, 1985, p 420. Thus, in one instance, the Speaker referred to the Committees on Education and Labor and the Judiciary for a time certain a portion of a Senate amendment within their joint jurisdiction prohibiting public secondary schools from denying students the right of conducting religious and other meetings (and indirectly creating a federal cause of action under civil rights law), which Senate amendment was not germane to the House bill to which attached. 98-2, June 28, 1984, p .....

§ 5.19 The Speaker may, pursuant to clause 5 of Rule X, sequentially refer a bill to a committee solely for consideration of certain portions of the bill "having a direct effect" on a subject within the jurisdiction of that committee. 98-1, June 7, 1983, p .....

§ 5.20 First instance where the Speaker, pursuant to his authority under clause 5 of Rule X, sequentially referred a continuing appropriation joint resolution (reported as 'privileged') to the committee having jurisdiction over a legislative provision in a section of the

joint resolution, with no time limitation on the sequential referral. 98-1, Sept. 22, 1983, p .....

§ 5.21 Pursuant to clause 5, Rule X, the Speaker may sequentially refer a jointly referred bill when the first primary committee reports, for a period ending a number of days after the next primary committee reports. 99-1, Aug. 1, 1985, p 22681.

§ 5.22 Instance where the Speaker made two different sequential referrals of a jointly referred and reported joint resolution. 99-2, July 24, 1986, p .....

§ 5.23 Pursuant to clause 5, Rule X, the Speaker may remove a reported bill from the calendar and refer it sequentially to one or more committees where it becomes evident that a sequential referral would have been appropriate when the bill was reported. 99-2, June 19, 1986, p .....

## § 6. Time Limitations on Referred Bills; Extensions

§ 6.1 Pursuant to clause 5 of Rule X, the Speaker may extend the period of a sequential referral and may at the same time sequentially refer the bill to additional committees. 97-2, Mar. 2, 1982, p 2766.

§ 6.3 Pursuant to clause 5 of Rule X, the Speaker may refer a bill jointly to two or more committees subject to a time limitation. 97-2, Feb. 10, 1982, pp 1473, 1474.

§ 6.9 Clause 5 of Rule X, which requires the Speaker to the maximum extent feasible to refer bills, resolutions, and other matter to all committees having jurisdiction over any matter therein, permits the Speaker to designate a "primary" committee among those to which a bill may be jointly referred, initially imposing time limits on the other committee(s) to be applied after the primary committee's report. 98-1, Jan. 3, 1983, p ..... Thus, the Speaker may jointly refer a bill to



two committees and may at that time impose a time limit on one of the committees if the other committee files a report thereon. 98-1, Jan. 27, 1983, p ..... *Note:* This was the first

example of a joint referral with a time limit imposed from the outset on the "secondary" committee. For another instance, see 98-1, Feb. 2, 1983, p .....

## Chapter 17

# Committees

## A. CREATING AND ORGANIZING COMMITTEES

### § 1. In General

§ 1.5 By unanimous consent, the House considered and agreed to a resolution establishing in the House a Commission on the U.S. House of Representatives Bicentenary (consisting of Members and former Members appointed by the Speaker). 99-1, Aug. 1, 1985, p 22524.

### § 2. Standing Committees

§ 2.3 A privileged resolution was reported from the Committee on House Administration, providing payment from the contingent fund of primary expenses of all standing and select committees and considered under the "hour" rule in the House. 97-2, Mar. 10, 1982, pp 3763 et seq. Such a resolution may be reported from the Committee on House Administration with a committee amendment in the nature of a substitute reducing all amounts. 97-2, Mar. 31, 1982, p 6081.

§ 2.9 The House in the 99th Congress amended Rule XI clause 5 to provide new automatic interim funding for committees until Mar. 3 of the first session. 99-1, Jan. 3, 1985, p 393.

### § 3. Select Committees

§ 3.19 The House adopted a privileged resolution reported from the Committee on Rules, creating a Select Committee on Children, Youth and Families for the 98th Congress (identical to the select committee established but not appointed in the preceding Congress), without legislative jurisdiction. 98-1, Feb. 2, 1983, p ..... [H. Res. 16]. Such a committee was also created in the 99th Congress. 99-1, Mar. 7, 1985, p 4989.

§ 3.20 A privileged resolution was reported from the Committee on Rules establishing the Select Committee on Narcotics Abuse and Control without legislative jurisdiction, applying clauses 1 through 4 of Rule XI including subpoena authority to the select committee, at least one member to be appointed from each of the Committees on Agriculture, Armed Services, Government Operations, Foreign Affairs, Energy and Commerce, Judiciary, Merchant Marine and Fisheries, and Ways and Means. 98-1, Feb. 8, 1983, p ..... [H. Res. 49]. A similar committee was established in the 99th Congress. 99-1, Mar. 7, 1985, p 4976.

§ 3.21 The House adopted a privileged resolution reported from the Committee on Rules, as amended by a committee substitute, creating in a freestanding resolution and not as a part of the rules of the House a Select Committee on Hunger (to expire with the 98th



Congress since not embodied in the rules), without legislative jurisdiction, to conduct a comprehensive study and review of hunger and malnutrition. 98-2, Feb. 22, 1984, p ..... [H. Res. 15]. A similar committee was established in the 99th Congress. 99-1, Mar. 7, 1985, p 4961.

#### § 4. Joint Committees

§ 4.10 The House adopted a privileged Senate concurrent resolution providing for the appointment of a Joint Congressional Committee on Inaugural Ceremonies. 98-2, June 29, 1984, p ..... *Note:* These concurrent resolutions have traditionally been considered as privileged because they are essential to the functioning of the Congress on Inauguration Day when both Houses are in session.

#### § 5. Chairmen of Committees

§ 5.4 The Chairman of the Democratic Caucus offered a privileged resolution electing chairmen of two standing committees to fill vacancies in those offices. 98-2, Sept. 6, 1984, p .....

#### § 6. Members of Committees

§ 6.1 A resolution directing that the party ratios of all standing committees, subcommittees, and staffs thereof be changed within a time certain to reflect overall party ratios in the House was held to constitute a change in the rules of the House, which already address the question of procedures for selecting committee members and staff, and was held not to constitute a question of the privileges of the House under Rule IX. 98-2, Jan. 23, 1984, p ..... On the other hand, a resolution asserting that the ratio of Republican representation on various subcommittees was less than the ratio of representation on full committees, to the disadvantage of constituents of Republican Members and of the rights of all Members of the House, and resolving that each

subcommittee of the House should be constituted in a ratio proportionate to the membership on full committees, was held to constitute a question of the privileges of the House, since it did not change the rules of the House or their interpretation or collaterally attack an action already taken by the House (the House having no rule or procedure for determining subcommittee composition). 98-2, Oct. 4, 1984, p .....

§ 6.2 98-2, May 17, 1984, p .....

§ 6.3 98-2, Feb. 9, 1984, p ..... (resolutions electing Members to standing committees are debatable under the hour rule).

§ 6.12 A privileged resolution was called up the Chairman of the Democratic Caucus, electing Members and Delegates to standing committees, and Members-elect only when sworn, and electing certain "temporary" members of committees for the first session only; and a privileged resolution was called up by the Chairman of the Republican Conference electing Members to standing committees and Members-elect only when sworn. 98-1, Jan. 6, 1983, p .....

§ 6.13 In one instance, a minority member offered a motion to commit a privileged resolution called up by the Majority Caucus electing majority members to several committees, with instructions to the Committee on Rules to report forthwith an amendment delaying the effectiveness of the resolution until the majority membership on all standing committees reflects the overall party ratio in the House. 98-2, Feb. 9, 1984, p .....

§ 6.14 The Member calling up a privileged resolution at the direction of the party caucus or conference electing a Member to standing committees controls one hour of debate on the resolution. 98-1, July 18, 1983, p .....

§ 6.15 Under clause 6(b) of Rule X, membership on standing committees is contingent on continuing membership in the party caucus

which nominated the membership for committee election; when a Member ceases to be a member of the party caucus or conference, the chairman thereof notifies the Speaker who then notifies the chairmen of the committees on which the Member served that the Member's election to the committee has been vacated (and all such communications are laid before the House as a matter of record). 98-2, Sept. 11, 1984, p ..... *Note:* Rule 1(B)(1) of the Democratic Caucus Rules provides that a Member ceases to be a member of the caucus when he or she "resigns from or acts affirmatively to change political parties."

§ 6.16 The House adopted a privileged resolution offered by the Minority Leader at the direction of the Republican Conference to elect a Republican Member to the Committee on Small Business, and to rank him fifth among the 15 Republican Members thereon, that Member's election to that committee as a Democrat having been vacated pursuant to clause 6(b) of Rule X. In this instance, the Member had announced his candidacy for reelection as a Republican and had been expelled from his membership in the Democratic Caucus. 98-2, Sept. 18, 1984, p .....

§ 6.17 The House in the 99th Congress amended Rule X clause 1(e)(1) to eliminate the numerical limitation on membership on the Budget Committee. 99-1, Jan. 3, 1985, p 393.

§ 6.18 Privileged resolutions were called up by the Chairman of the Democratic Caucus and the Chairman of the Republican Conference, respectively, electing Members and Delegates to standing committees, and establishing majority and minority "vacancies" on several of those standing committees (thereby in effect establishing the overall size of all committees. 99-1, Jan. 30, 1985, pp 1271-73 (H. Res. 34, H. Res. 35). *Note:* The majority resolution, which was considered first, established "vacancies" on seven standing committees, not including Budget, thereby implicitly

setting the overall majority numbers on all standing committees by indicating that there were no "vacancies" on the remaining committees.

## § 9. Increasing Committee Membership

§ 9.10 By unanimous consent, the House considered and agreed to a resolution amending Rule XLVIII to increase the size of the Permanent Select Committee on Intelligence from 14 to 16 members. 99-1, Jan. 30, 1985, p 1271.

## B. COMMITTEE PROCEDURE; HEARINGS

## § 11. In General; Committee Rules

§ 11.15 The House in the 99th Congress amended Rule XI clause 1(a)(1) to permit nondebateable motions in committees to dispense with the first reading of a bill in full by the Clerk prior to a second reading for amendment by sections. 99-1, Jan. 3, 1985, p 393.

## § 12. Time of Meetings

§ 12.8 The pendency of a request to permit a committee to sit under the five-minute rule unless 10 Members object, is not the equivalent to the Chair's putting a pending motion or proposition to a vote and does not permit a point of order of no quorum under Rule XV clause 6(e). 97-2, Aug. 16, 1982, pp 21219, 21315, 21316.

§ 12.14 The Committee of the Whole having risen during consideration of a bill under the five-minute rule, the Speaker indicated that he would, in his discretion under clause 6 of Rule XV, recognize a Member to move a call of the House pending a request (requiring 10

objections) for a committee to sit that day during the five-minute rule, where Members had not been on notice that business would be interrupted for such a request. 97-2, Aug. 4, 1982, p 19375.

§ 12.15 Consistent with the Speaker's policy of assuring adequate notice to Members of requests for committees to sit under the five-minute rule, the Chair may, in lieu of entertaining a motion for a call of the House, temporarily withdraw recognition from the Member making the request at a time when no votes or quorum calls are anticipated. 97-2, Aug. 16, 1982, p 21219.

§ 12.16 In 1983, the Speaker announced certain policies concerning recognition for requests for committees to sit during the five-minute rule. The Speaker's guidelines for recognition for such requests were intended to afford predictability as to when recognition would be granted, to avoid discretionary calls of the House pending such requests, to distinguish between hearing and meeting requests, and to permit meeting requests only on days when legislative votes are scheduled but not after the completion of legislative business. 98-1, Mar. 3, 1983, p .....

## § 15. Access to Committee Records and Files

§ 15.1 *Delete and Insert:* While all Members of the House have access to committee records under Rule XI clause 2(e), evidence taken in executive sessions of a committee is under the control of the committee and, under Rule XI clause 2(k), cannot be released without the consent of the committee. See 87-1, June 26, 1961, p 11233.

§ 15.10 The Chairmen of the Committee on Post Office and Civil Service and of its Subcommittee on Human Resources inserted into the Record statements and correspondence concerning the propriety of that subcommittee chairman's actions in unilaterally furnish-

ing certain subcommittee files to a Member of the Senate. 98-2, Mar. 14, 1984, p .....

## § 16. Investigations; Hearings

§ 16.14 The House in the 99th Congress amended Rule XI clause 3(e) to permit committee and subcommittee chairmen to determine the number of TV and press cameras in any hearing or meeting. 99-1, Jan. 3, 1985, p 393.

## C. JURISDICTION OF COMMITTEES

### § 17. In General; Overlapping Jurisdiction

§ 17.12 It is a violation of clause 5(a), Rule XXI for a committee (including the Budget Committee in reporting recommendations from other legislative committees in a reconciliation bill) other than the Appropriations Committee to report a provision in a bill constituting an appropriation. 99-1, Oct. 24, 1985, p 28812.

§ 17.13 Clause 5(b) of Rule XXI prohibits the reporting of a tax or tariff measure from a committee not having that jurisdiction, and if the Chair sustains a point of order on that basis the provision in question is automatically stricken from the bill. 98-1, Oct. 27, 1983, p ..... The rule prohibits a tax measure from being offered as an amendment to a bill reported from a committee not having jurisdiction over tax measures. 98-1, Sept. 21, 1983, p ..... A point of order under clause 5(b), Rule XXI against a tax or tariff provision in a bill not reported from a committee having that jurisdiction is in order at any time during consideration of the bill for amendment in Committee of the Whole. 99-2, Aug. 1, 1986, p .....



§ 17.14 Clause 5(b), Rule XXI precludes inclusion of provisions carrying tax or tariff measures in bills reported by a committee not having jurisdiction to report such measures. Thus, a provision in a reconciliation bill reported from the Budget Committee containing a recommendation from the Committee on Education and Labor excluding certain interest on obligations of the Student Loan Marketing Association from the application of the Internal Revenue Code—affecting interest deductions against income taxes—was stricken on a point of order as not reported from the Committee on Ways and Means. 99-1, Oct. 24, 1985, p 28827. Likewise, a fee imposed uniformly at ports of entry to be collected by the Customs Service as a condition of importation of a commodity constitutes a tariff within the meaning of clause 5(b), Rule XXI, proscribing tariff amendments to bills reported from committees not having jurisdiction over tax or tariff measures. 99-1, June 4, 1985, p 14010. Similarly, a provision in a reconciliation bill reported from the Budget Committee containing a recommendation from the Committee on Merchant Marine and Fisheries amending a law within that committee's jurisdiction to expand the tax benefits available to shipowners through a "capital construction fund" by permitting that repatriation of foreign-source income to avoid U.S. tax and expanding the definition of vessels eligible to establish such tax-exempt fund, was ruled out since not reported from the Committee on Ways and Means. 99-1, Oct. 24, 1985, p 28827. And to a bill reported from the Committee on Foreign Affairs authorizing foreign assistance programs, an amendment to the tariff schedules to deny "most favored nation" trade treatment to a certain nation was ruled out as a tariff measure offered to a bill reported by a committee not having jurisdiction. 99-1, July 11, 1985, p 18591.

§ 17.15 The prohibition in clause 5(b), Rule XXI against amendments constituting tax or tariff provisions offered to bills not reported

by a committee having jurisdiction over those measures, has been held to apply to provisions in general appropriation bills otherwise in order as limitations on funds under clause 2, Rule XXI if they can be shown to effectively require or prevent the collection of a tax in contravention of existing law. 99-1, July 26, 1985, p 20806. And in determining whether a provision in the form of a limitation in a general appropriation bill constitutes a tax or tariff measure the Chair will consider argument as to the certainty of impact on revenue collections and tax status or liability as well as whether the imposition of the restriction on IRS funding for the fiscal year will effectively and inevitably preclude the IRS from collecting revenues otherwise due and owing by law or require collection of revenue not legally due or owing. 99-2, Aug. 1, 1986, p ..... Where a provision in a general appropriation bill has the effect of rendering a legally required tax uncollectible by denying the Internal Revenue Service the use of funds to collect the tax, then the provision is subject to a point of order under the clause 5(b), Rule XXI prohibition against tax or tariff measures being reported by committees not having that jurisdiction. 99-2, Aug. 1, 1986, p .....

## § 19. Committee on Appropriations

§ 19.6 The Speaker (pro tempore) referred the President's budget message to the Committee on Appropriations and in addition referred part 7 of the appendix to the Committee on Post Office and Civil Service, that part contained the President's quadrennial recommendations on legislative, executive, and judicial branch salary adjustments. 97-1, Jan. 16, 1981, p 357.



**§ 20. Committee on Armed Services**

§ 20.18 The Committee on Armed Services, as well as the Committee on Foreign Affairs, has joint jurisdiction over a bill to prohibit the production of certain chemical weapons for the military and to call for negotiations with a foreign government for an agreement to ban production. 99-1, Jan. 22, 1985, p 817.

§ 20.19 The Committee on Armed Services, as well as the Committee on Interior and Insular Affairs, has joint jurisdiction over a measure that involves both federal regional power marketing authorities and military applications of nuclear energy. 99-2, July 17, 1986, p .....

**§ 23. Committee on the District of Columbia**

§ 23.4 The Committee on the District of Columbia, and not the Committee on the Judiciary, has jurisdiction over a public bill amending a 1939 statute, originally reported by the former committee, providing for the incorporation of an organization as a District of Columbia corporation. 98-2, June 20, 1984, p .....

**§ 27. Committee on Interior and Insular Affairs**

§ 27.18 The Committee on Energy and Commerce, as well as the Committee on Interior and Insular Affairs, has jurisdiction over a bill to prescribe procedures for meetings of the Nuclear Regulatory Commission. 99-1, July 18, 1985, p 19624.

**§ 28. Committee on International Relations; Committee on Foreign Affairs**

§ 28.12 The Committee on Armed Services, as well as the Committee on Foreign Affairs,

has joint jurisdiction over a bill to prohibit the production of certain chemical weapons for the military and to call for negotiations with a foreign government for an agreement to ban production. 99-1, Jan. 22, 1985, p 817.

**§ 29. Committee on Interstate and Foreign Commerce (Changed in the 96th Congress to Energy and Commerce)**

§ 29.13 The Committee on Energy and Commerce, and not the Committee on Education and Labor, has jurisdiction over executive communications submitting reports under the Developmental Disabilities Act relating to mental health (Pub. L. No. 95-602). 97-1, June 1, 1981, p 11028.

§ 29.14 The Committee on Energy and Commerce, as well as the Committee on Banking, Finance and Urban Affairs has joint jurisdiction over a bill to amend the Federal Reserve Act to authorize the Federal Reserve Board to impose reserve requirements on the assets of "open-end investment companies" which offer transaction accounts by negotiable instrument to depositors. 97-1, Mar. 18, 1981, p 4610.

§ 29.15 The Committee on Energy and Commerce, as well as the Committee on Interior and Insular Affairs, has jurisdiction over a bill to prescribe procedures for meetings of the Nuclear Regulatory Commission. 99-1, July 18, 1985, p 19624.

**§ 30. Committee on the Judiciary**

§ 30.24 The Committee on the Judiciary has concurrent jurisdiction, with the Committee on Energy and Commerce, over legislation imposing criminal sanctions under the Controlled Substances Act. 98-1, Nov. 14, 1983, p .....

§ 30.25 The Committee on the Judiciary, as well as the Committee on Education and Labor, has joint jurisdiction over bills to amend the Walsh-Healey Act. 99-1, May 15, 1985, p 11946.

### § 33. Committee on Public Works and Transportation

§ 33.20 The Committee on Public Works and Transportation, and not the Committee on Foreign Affairs, has jurisdiction over an executive communication proposing draft legislation to amend Pub. L. No. 90-553 (reported by the former committee) to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries. 97-1, Sept. 15, 1981, p 20598.

§ 33.21 The Committee on Public Works and Transportation, as well as the Committee on Energy and Commerce, has joint jurisdiction over a bill amending the Solid Waste Disposal Act to provide for the cleanup of hazardous waste sites which present a threat to human health and the environment (defined to potentially include navigable waters). 98-2, Mar. 21, 1984, p .....

§ 33.22 The Committee on Ways and Means has joint jurisdiction, with the Committee on Public Works and Transportation, over an executive communication proposing draft legislation, and a corresponding bill, reauthorizing the Surface Transportation Act but also containing a revenue title raising taxes to fund surface transportation programs. 99-2, Mar. 20, 1986, p .....

### § 38. Committee on Ways and Means

§ 38.11 The Committee on Ways and Means has concurrent jurisdiction, with the Committee on Energy and Commerce, over a bill

amending the Public Health Service Act with respect to health professions personnel, and amending the Internal Revenue Code to require disclosure by the Internal Revenue Service to the Secretary of Health and Human Services the location of borrowers who have defaulted student loans made under the act. 97-1, June 11, 1981, p 12169.

§ 38.12 Clause 5(b) of Rule XXI prohibits the reporting of a tax or tariff measure from a committee not having that jurisdiction, and if the Chair sustains a point of order on that basis the provision in question is automatically stricken from the bill. 98-1, Oct. 27, 1983, p ..... The rule prohibits a tax measure from being offered as an amendment to a bill reported from a committee not having jurisdiction over tax measures. 98-1, Sept. 21, 1983, p .....

## D. COMMITTEE REPORTS

### § 39. In General

§ 39.1 Clause 2 of Rule XIII, providing that measures reported adversely from committee be laid on the table and not referred to a calendar, except upon request, does not apply to an adverse report on a privileged matter, such as a resolution of inquiry, which is referred to the House Calendar by the Speaker. 98-2, Apr. 9, 1984, p .....

### § 43. Time for Filing Report

§ 43.1 A committee may obtain permission to file a report when the House is not in session by unanimous consent only, and a motion to that effect is not in order. 97-2, Dec. 17, 1982, p .....

§ 43.10 Ordinarily, a committee may not file its report on a bill after the House has passed it. 99-1, Sept. 30, 1985, p 25270.

§ 43.14 A privileged report from the Committee on Rules may be filed at any time when the House is in session, including during special-order speeches, and unanimous consent is not required for that purpose. 99-2, Oct. 14, 1986, p .....

#### § 44. Status as Privileged; Calling Up

§ 44.1 Under Rule XI clause 4(b) it is "always in order" to call up for consideration a report from the Committee on Rules on a rule or on the order of business (though not on the same day reported except as specified by the rule). *Manual* § 729a. One motion to adjourn may be offered while a privileged report from the Committee on Rules is pending pursuant to clause 4(b) of Rule XI, but no other motion, including the motions to commit or refer, to table, to postpone indefinitely, or to postpone to a day certain, may be offered unless the previous question on the resolution is first rejected. 99-2, Oct. 9, 1986, p .....

§ 44.4 *Delete and Insert:* A committee report on a privileged resolution of inquiry is filed from the floor as privileged (even if an adverse report). 98-1, May 4, 1983, p .....

§ 44.5 A privileged report filed by the Committee on Rules after legislative business has been concluded, during special-order speeches, is eligible for consideration on the next legislative day or any day thereafter. 99-2, Oct. 14, 1986, p .....

§ 44.7 Pursuant to clause 4(b), Rule XI, a two-thirds vote is required to consider a privileged report from the Committee on Rules on the same legislative day reported. If the House convenes for two legislative days on the same calendar day, any report filed the first legislative day may be called up on the second day and the question of consideration cannot be raised. 99-1, Dec. 16, 1985, p ..... The two-thirds vote required by the rule need

not be established by a roll call vote. 99-2, Aug. 7, 1986, p .....

§ 44.11 A resolution reported from the Committee on Rules called up on the same day reported may be called up by unanimous consent (to avoid the requirement of a two-thirds vote for consideration). 98-2, Sept. 20, 1984, p .....; 99-2, Oct. 14, 1986, p ..... Under this procedure, the Chair entertains a unanimous-consent request to consider the resolution notwithstanding the two-thirds requirement. 99-2, Aug. 7, 1986, p ..... Such waivers have been applied to a resolution to be reported from the Committee on Rules on the following day. 99-2, Aug. 5, 1986, p ..... And in one instance the House waived the two-thirds vote requirement for consideration of *any* special order to be reported from the Committee on Rules providing for consideration of a certain conference report. 99-1, Aug. 1, 1985, p 22591.

§ 44.13 The Committee on Rules has the authority to report a resolution making in order the text of an introduced bill as an amendment considered as original text for the purpose of amendment for a reported bill, and no point of order lies that such bill has not been available for three days under clause 2(1)(6) of Rule XI, which only applies to the consideration of reported measures themselves. 99-2, Oct. 9, 1986, p .....

§ 44.14 *Delete and Insert:* The provisions of Rule XI clause 2(1)(6)—as to the *availability* of committee reports and the reported measure for three calendar days—are not applicable to privileged reports from the Committee on Rules or to bills before the House which have not been reported from committee. In counting the three days, Saturdays, Sundays, and legal holidays are excluded unless the House is in session. *Manual* § 715.

## § 45. Supplemental, Minority, and Additional Views

§ 45.12 Instance where, by unanimous consent, a committee was given permission to file a supplemental report (recommending a new proposed amendment) to accompany a bill previously reported with a different amendment. 98-2, Mar. 1, 1984, p .....

§ 45.13 The Chair will not permit a Member during debate in the House to request unani-

mous consent to amend a committee report in a specified manner. 99-1, Apr. 2, 1985, p 7209. *Note:* In this instance, since the bill had not yet finally passed, the reporting committee could have obtained unanimous consent to file a supplemental report to make a substantive correction, but no Member may seek unanimous consent to specifically amend a committee report already filed.

## Chapter 18

# Discharging Measures From Committees

## § 1. The Discharge Rule Generally; Motion to Discharge

§ 1.6 The Committee on Rules reported a special order discharging the Committee on the Judiciary from an unreported joint resolution proposing a constitutional amendment, in lieu of a "closed" rule pending before the Committee on Rules against which a successful discharge petition had been invoked, thereby obviating the discharge petition procedure. 97-2, Oct. 1, 1982, p 27172. *Note:* On Sept. 29, Discharge Petition No. 18, on H. Res. 450, received the necessary 218 signatures and was placed on the Discharge Calendar. Members were not thereafter allowed to remove their names from the petition, since the Rule (XXVII clause 4) requires that after the petition has received the necessary signatures it is to be entered in the Journal, printed, and referred to the Discharge Calendar. See *Manual* § 908.

§ 1.7 A motion pending on the calendar of motions to discharge committees, discharging a resolution referred to the Committee on Rules, may be adversely disposed of by adoption by the House of a special order reported

from the Committee on Rules laying that resolution on the table. 99-2, Apr. 9, 1986, p .....

## § 6. Procedures for Discharging Vetoed Bills, Resolutions of Inquiry, and Resolutions of Disapproval

§ 6.10 Pursuant to § 152 of the Trade Act of 1974 (19 USC § 2192(c)), a motion to discharge the Committee on Ways and Means from consideration of a simple resolution disapproving the President's recommendation of extension of waiver authority (to extend most-favored-nation tariff status to a country) is highly privileged in the House if offered by a Member favoring the resolution and if the resolution has been pending before that committee for 30 calendar days; such motion is debatable for one hour, equally divided between those favoring and those opposed to the resolution (and is subject to the preferential motion to lay on the table). 99-2, July 29, 1986, p ..... Constitutionality of one-House vetoes, see Ch 24 § 19, *infra*.



## Chapter 19

## The Committee of the Whole

## A. GENERALLY

**§ 3. The Chairman's Role; Rulings**

§ 3.11 It is the duty of the Speaker and not the Chairman of the Committee of the Whole to interpret special rules governing final House action on pending measures. In this instance, the Chairman declined to respond to an inquiry concerning a special rule "linking" House action on a pending measure with subsequent consideration of another bill. 99-2, Apr. 16, 1986, p. ....

§ 3.18 A unanimous-consent request to make a measure in order for consideration in the House cannot be entertained by the Chairman of the Committee of the Whole, as the Committee of the Whole has no authority to control House proceedings. 98-2, Apr. 4, 1984, p. ....

§ 3.19 The Chairman of the Committee of the Whole, and not the Speaker, rules on the timeliness of a demand for a recorded vote in Committee of the Whole. 99-1, Dec. 12, 1985, p. .... In one instance, following the Chair's announcement that an insufficient number of Members had arisen in Committee of the Whole to order a recorded vote, the Chairman admonished Members (reacting adversely to his count) to maintain proper decorum in the Chamber. 99-1, June 27, 1985, pp. 17893 et seq. See also 99-1, July 11, 1985, p. 18550.

## B. PROCEDURE

**§ 6. Resolving Into Committee of the Whole**

§ 6.9 In 1983, the House adopted Rule XXIII clause 1(b). Under this rule, after the House has adopted a special order providing for the consideration of a measure in the Committee of the Whole, the Speaker may at any time within his discretion, when no question is pending before the House, declare the House resolved into the Committee for the consideration of that measure without intervening motion, unless the resolution in question provides otherwise. *Manual* § 862. For the first use of the Speaker's authority to declare the House resolved into Committee of the Whole without motion pursuant to clause 1(b) of Rule XXIII, see 98-1, Mar. 3, 1983, p. ....

**§ 7. Quorum of the Committee; Procedure**

§ 7.1 In 1981, the House adopted a resolution amending Rule XXIII clause 2 to make discretionary rather than mandatory a quorum call during general debate in Committee of the Whole. 97-1, Jan. 5, 1981, p. 98.

§ 7.8 Whether to conduct a 15-minute recorded quorum call, or a "notice" quorum call vacated after a quorum has responded, is a matter completely within the discretion of the Chairman of the Committee of the Whole under clause 2 of Rule XXIII. 98-2, Sept. 19, 1984, p. ....

§ 7.14 Pursuant to clause 2(a) of Rule XXIII, the Chairman of the Committee of the Whole may direct that a "notice" quorum call be

conducted pursuant to clause 2(b) of Rule XV—by depositing quorum tally cards with clerk tellers—in lieu of electronic recording or a call of the roll. 98-1, July 13, 1983, p ..... [first instance of the Chair's utilization of clerk tellers to record Members' presence pursuant to clause 2(b) of Rule XV].

## § 9. — Motions to Rise

§ 9.1 The Chairman of the Committee of the Whole does not dictate the legislative schedule or determine when the Committee of the Whole will rise, but may recognize the manager of the bill for a motion that the Committee rise (pursuant to consultation with the leadership) at any time during general debate. 98-2, Sept. 19, 1984, p .....

§ 9.4 The motion that the Committee of the Whole rise is privileged, and may be offered during debate on a pending amendment, except when a Member has the floor. 99-2, Aug. 13, 1986, p .....

§ 9.5 A motion that the Committee of the Whole rise may be made between the time an amendment is offered and read and before recognition of its proponent for debate thereon. 97-1, May 12, 1981, p 9323.

§ 9.12 The provisions of clause 2(a), Rule XXIII, requiring the Chairman of the Committee of the Whole to entertain a point of order of no quorum when he has put the pending question to a vote, do not apply on an affirmative vote that the Committee rise, since a quorum is not required for adoption of that motion (clause 6(b), Rule XV). 99-1, Oct. 3, 1985, p 26096. A simple motion that the Committee of the Whole rise is in order pending a quorum call of the Committee, the absence of a quorum having been announced, since the motion does not require a quorum for adoption; but if the Committee refuses to rise, it must establish a quorum. 98-2, June 21, 1984, p .....

§ 9.16 To the same effect, see 97-1, July 15, 1981, p 15921.

§ 9.17 The adoption of a motion to rise during debate on an amendment in Committee of the Whole does not affect the time remaining on the amendment when the bill is resumed as unfinished business in the Committee of the Whole, where debate is limited to a certain number of minutes and not to a time or day certain. 99-2, Aug. 14, 1986, p ..... Where a special order provides for additional general debate following adoption of an amendment in the nature of a substitute in the Committee of the Whole, but the Committee rises pursuant to a simple motion to rise prior to that debate, the amendment is not reported to the House as would be the case if the Committee had concluded that general debate and risen pursuant to the special order without motion. 99-2, Apr. 16, 1986, p .....

§ 9.19 Instance where the ranking minority member of a subcommittee who had introduced and controlled general debate in favor of a concurrent resolution being considered in Committee of the Whole moved that the Committee rise and report the resolution to the House favorably, where the chairman who had reported the resolution had offered the motion for its consideration but had controlled time in opposition. 98-1, May 24, 1983, p .....

§ 9.20 Pending consideration of an amendment to a general appropriation bill, read for amendment in its entirety, the House adopted a privileged motion, pursuant to clause 2(d) of Rule XXI, to rise and report the bill to the House with such amendments as had been adopted, with the recommendation that the amendments be agreed to and that the bill do pass, thereby precluding consideration of the amendment. 98-2, June 6, 1984, p .....

§ 9.21 Pursuant to clause 2(d), Rule XXI, at the conclusion of the reading of a general ap-

propriation bill for amendment, the motion that the Committee of the Whole rise and report the bill to the House with adopted amendments (or the simple motion to rise) takes precedence over an amendment containing a limitation. 99-2, Sept. 12, 1986, p .....

## § 10. Motions Relating to Enacting Clauses

§ 10.4 The Chairman of the Committee of the Whole will not recognize for a preferential motion—that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken—if it is not in writing and not in the proper form. 99-2, Aug. 15, 1986, p .....

The proper form of the motion is “that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken,” and not “to strike the enacting clause.” 99-2, Sept. 12, 1986, p .....

§ 10.5 A motion in Committee of the Whole that the Committee rise and report back to the House the recommendation that the enacting clause be stricken takes precedence over the motion to rise and report with or without amendments offered at the end of the reading of a general appropriation bill for amendment. It also takes precedence over the motion to amend (clause 7, Rule XXIII) which in turn (except with respect to amendments containing limitations) takes precedence over the motion to rise and report with the recommendation that the bill do pass

(with or without adopted amendments) under clause 2(d), Rule XXI on general appropriation bills. 99-2, July 24, 1986, p .....

§ 10.8 Rejection by the Committee of the Whole or by the House of a preferential motion to strike the enacting clause permits the offering of proper amendments notwithstanding expiration of all debate time on the bill, but only amendments which have been printed in the Record may be debated for five minutes on each side. 98-1, July 29, 1983, p .....

§ 10.9 A preferential motion to strike the enacting clause may be withdrawn in Committee of the Whole only by unanimous consent. 98-1, July 29, 1983, p .....

§ 10.10 Where a Member offers a preferential motion to strike the enacting clause in order to obtain five minutes of debate on a pending amendment on which debate has been limited and allocated, the Chair must put the question on the preferential motion immediately after debate thereon, absent unanimous consent to combine that debate with time remaining under the allocation on the amendment. 99-2, June 25, 1986, p .....

## § 12. — Debate

§ 12.3 Debate on a preferential motion in Committee of the Whole to strike the enacting clause, and a vote on that motion, takes precedence over remaining debate on a pending amendment on which time has been limited and allocated. 99-2, June 25, 1986, p .....

## Chapter 20

## Calls of the House; Quorums

## A. GENERALLY

**§ 2. Effect of Absence of Quorum**

§ 2.1 Where the absence of a quorum is announced after a voice vote on the Speaker's approval of the Journal, the House may not, even by unanimous consent, vacate the taking of an "automatic" yea and nay vote under Rule XV clause 4 in order to conduct another voice vote in lieu of a roll call vote, since it may not transact business, including a unanimous-consent agreement, in the announced absence of a quorum. 98-1, July 13, 1983, p .....

**§ 3. Calls Ordered on Motion or Under the Rule**

§ 3.4 To the same effect, see 97-1, Dec. 8, 1981, p 30003.

§ 3.13 The Chair may, in his discretion, recognize any Member to move a call of the House, which motion does not require a quorum for adoption. 97-1, Oct. 1, 1981, p 22767. Pursuant to clause 6, Rule XV, a motion for a call of the House during debate in the House is entirely within the discretion of the Speaker, who may decline recognition for that purpose even where a Member has been permitted to speak out of order by unanimous consent. 99-1, May 15, 1985, pp 11949 et seq.

§ 3.14 Pursuant to clause 6(e)(1), Rule XV, a point of order that a quorum is not present may not be entertained by the Chair during debate only, but the Chair may in his or her discretion recognize at any time for a motion, or unanimous-consent request, for a call of the House. 99-2, Aug. 6, 1986, p .....

**§ 7. The Chair's Count**

§ 7.5 While the Chair is counting those standing in Committee of the Whole to support a demand for a recorded vote and prior to the Chair's final announcement of her count, a Member may make the point of order of no quorum under clause 2 of Rule XXIII, at which point the Chair must immediately begin counting for a quorum, and the request for a recorded vote remains pending following establishment of a quorum. 97-2, Aug. 5, 1982, p 19658.

§ 7.6 The fact that a majority of the Members of the House have not passed between the tellers on the question of ordering a second on a motion to suspend the rules does not conclusively show that a quorum is not present in the Chamber, and the Speaker may count the House to determine whether a quorum is present. 97-1, Dec. 16, 1981, p 31851.

## B. OBJECTIONS; POINTS OF NO QUORUM

**§ 11. In Committee of the Whole**

§ 11.10 The Chairman of the Committee of the Whole must entertain a point of order that a quorum is not present during proceedings under the five-minute rule if a quorum has not yet been established in the Committee of the Whole on the bill then pending (and the fact that a quorum has previously been established in a Committee of the Whole on that day on another bill is irrelevant). 98-2, Sept. 19, 1984, p .....



§ 11.11 Pursuant to clause 2(a) of Rule XXIII, which precludes points of no quorum in Committee of the Whole once the roll has been called to establish a quorum of that Committee on that day unless the Chair is putting the pending question to a vote, the conduct of a recorded vote by electronic device on a prior amendment which has established a quorum of the Committee precludes a subsequent point of no quorum during debate under the five-minute rule; and a subsequent quorum call of the Committee during such debate may be had only by unanimous consent. 98-2, May 10, 1984, p .....

*Note:* This was the first instance in which the Chair specifically ruled that a recorded vote on a previous amendment, not preceded by a notice or regular quorum call, was itself a sufficient establishment of a quorum under Rule XXIII clause 2(a) so as to preclude a subsequent point of no quorum during debate under the five-minute rule. To the same effect, see 99-1, Dec. 17, 1985, p ..... And where a quorum has been established in the Committee of the Whole (on a recorded vote), a subsequent quorum call during debate on that day on amendments is not in order under clause 2(a), Rule XXIII, except by unanimous consent. 99-2, June 25, 1986, p .....

## § 12. When in Order

§ 12.3 When a Member objects to a vote in the House on the ground that a quorum is not present and makes that point of order under clause 4 of Rule XV, the Speaker may announce that he has just counted the House and he is not required to announce his actual count under the first sentence of clause 4. 97-1, Sept. 30, 1981, p 22456. *Note:* Under the last sentence of clause 4, the Speaker is required to make an actual count to ascertain whether a majority have seconded a motion to adjourn if a quorum has not responded during the roll call vote. Normally, the Speaker announces his actual count whenever

he determines that a quorum is present in the House, but he is not required to do so, and his count is not subject to challenge.

§ 12.12 Pursuant to clause 6(e)(1) of Rule XV, a point of order of no quorum cannot be made or entertained during debate in the House, but only when the Speaker has put the pending question to a vote. 98-1, Aug. 2, 1983, p ..... Clause 6 of Rule XV prohibits the Speaker from entertaining a point of order that a quorum is not present during debate only (99-2, Aug. 6, 1986, p ..... ) and no point of order against his refusal to so recognize lies under the Constitution (99-2, Feb. 27, 1986, p ..... )

§ 12.13 The Chair may not entertain a point of order that a quorum is not present unless the question has been put on the pending proposition in the House, and recognition to move a call of the House is entirely within the discretion of the Speaker who may refuse to recognize for that purpose. 97-1, Nov. 22, 1981, p 28731.

§ 12.19 While under clause 6(e)(1) of Rule XV any Member may make a point of order of no quorum when the Speaker has put the pending question to a vote, another Member may under clause 4 of Rule XV object to the vote in the House and invoke an "automatic" yea and nay vote on the pending question. 97-2, Aug. 18, 1982, p 22037.

§ 12.24 Pursuant to clause 6(a)(4) of Rule XV, a point of no quorum may not be made during consideration of any motion incidental to a call of the House, and thus a Member may not under clause 4 of Rule XV object to the vote on a motion for a call of the House on the ground that a quorum is not present. 97-1, Oct. 1, 1981, p 22767.

### § 13. As Dilatory; Points Raised Following Ascertainment of Quorum

§ 13.2 It is not in order to object to a vote on the grounds that a quorum is not present under clause 4 of Rule XV if the Chair determines that a quorum is present and no business has intervened. 97-2, Dec. 17, 1982, p .....

### § 14. Withdrawal

§ 14.2 A point of order of no quorum may not be withdrawn, or a quorum call be dispensed with, after the absence of a quorum has been ascertained and announced by the Chair in the Committee of the Whole. 98-2, Sept. 25, 1984, p .....

## Chapter 21

# The Order of Business; Special Orders

## A. GENERALLY

### § 1. Legislative Scheduling; Unfinished Business

§ 1.9 The House and not the Committee of the Whole controls resumption of consideration of a pending bill on a subsequent day. Thus, the Chairman of the Committee of the Whole will not entertain a unanimous-consent request which would dictate the time of resumption of a bill on a subsequent day or which would reverse the order of precedence of amendments. 99-1, June 26, 1985, p 17450.

### § 2. Varying the Order of Business

§ 2.1 *Delete and Insert:* In recent years, the Speaker has made frequent reference to his policy of conferring recognition upon Members to permit consideration of bills and resolutions by unanimous consent only when assured that the majority and minority elected floor leaderships and committee and subcommittee chairmen and ranking minority members have no objection. 97-1, Dec. 15, 1981, pp 31590, 31591; 97-2, May 4, 1982, p 8613; 98-2, Jan. 25, 1984, p .....; 99-1, Jan. 3, 1985,

p 420; 99-2, Oct. 17, 1986, p ..... Thus, pursuant to the Speaker's previously announced policy, the Chair may decline to recognize a Member to request unanimous consent for the consideration of an unreported measure, where the request had not been cleared with the minority leadership. 98-2, Feb. 29, 1984, p .....; 98-2, June 6, 1984, p ..... The Chair normally refuses recognition for legislative requests at a time when the membership has been advised that no further business would be scheduled, and he may inquire, before bestowing recognition, whether the majority leadership has been notified of and has assented to the making of the request at a particular time. 97-2, Dec. 17, 1982, p ..... The Speaker's authority to decline to recognize individual Members to request unanimous consent for the consideration of bills and resolutions derives from clause 2 of Rule XIV, which confers the general power of recognition on the Speaker. 98-2, Jan. 26, 1984, p ..... Or the Chair may simply object to a unanimous-consent request for the consideration of legislation just as any Member may. 98-1, Nov. 15, 1983, p .....; 98-2, Jan. 23, 1984, p ..... The Speaker will ordinarily accept the word of a Member that he has obtained the clear-

ance of the majority and minority floor and committee leaderships, and such permission need not be reduced to writing. 98-2, Jan. 31, 1984, p .....

The Speaker's announced policy of conferring recognition upon Members to call up unreported bills and resolutions by unanimous consent, when assured that the majority and minority floor and committee leadership has no objection, was interpreted to require consultation only with the minority floor leader, and not with the entire hierarchy of minority floor leadership. 99-1, Apr. 25, 1985, p 9416. *Note:* In this instance, had the Minority Leader not been available, or not consulted, the Chair would have then required acquiescence of the Minority Whip.

The Speaker's policy of conferring recognition upon Members to call up unreported bills and resolutions only when assured that the majority and minority floor and committee leadership have no objection, applies to a unanimous-consent request to consider a motion to suspend the rules and pass an unreported bill (on a nonsuspension day). 99-2, Aug. 12, 1986, p .....

§ 2.3 97-2, Sept. 28, 1982, p 25533.

### § 3. Varying the Order of Calendar Days

§ 3.10 Pursuant to a unanimous-consent request by the Majority Leader, a session of the House on a Sunday (a "dies non" under the precedents of the House) was made in order. 97-2, Dec. 17, 1982, p .....

*Note:* The House has in recent history continued in session beyond midnight Saturday into the calendar day of Sunday, but this appears to be the first modern instance (compare 5 Hinds §§ 6732, 7168, 7169, 7246), of the House meeting on Sunday.

### § 4. Calendar Wednesday

§ 4.2 Under the call of the committees on Calendar Wednesday pursuant to clause 7 of Rule XXIV, only the chairman of a committee which is called (or another member of the committee who has been specifically authorized by the committee) may call up for consideration a bill which has been reported by the committee and on the appropriate calendar for the required time. 98-2, Sept. 12, 1984, p .....

Thus, during a call of committees under the Calendar Wednesday rule, the Speaker indicated that the chairman of a standing committee could call up any bill reported from that committee and on the Union or House Calendar where the report has been available for three days. 98-2, May 2, 1984, p .....

Clause 2(l)(1)(A) of Rule XI, requiring the chairman of each committee to take necessary steps to bring reported measures to a vote, is sufficient authority for the chairman to call up a bill on Calendar Wednesday under clause 7 of Rule XXIV, but any other committee member must obtain specific authorization of his committee to call up a reported bill on Calendar Wednesday (4 Hinds § 3128; 7 Cannon §§ 928, 929). 98-2, Feb. 1, 1984, p .....

The authority of the chairman of a committee to call a bill up under the Calendar Wednesday procedure only applies to bills reported from the committee, and not to amendments between the Houses or unreported bills. 98-2, June 28, 1984, p .....

§ 4.6 While the precedents (7 Cannon §§ 882-888) indicate that the call of committees on Calendar Wednesday should precede unanimous-consent requests for the conduct of other business, the Speaker has on occasion recognized Members by unanimous consent for one-minute speeches prior to the call of committees. 98-2, Mar. 21, 1984, p .....

In one instance the Speaker entertained a unanimous-consent request to send a bill to conference prior to the call of committees under the Calendar Wednesday rule. 98-2, Mar. 28,

1984, p ..... Also, the House may by unanimous consent permit consideration of an otherwise privileged resolution electing a committee chairman and may permit the filing of privileged reports. 98-2, Jan. 25, 1984, p .....

§ 4.9 Where a bill on the Union Calendar is called up on Calendar Wednesday, the House automatically resolves into the Committee of the Whole, but the House may by unanimous consent reduce general debate time to one hour (rather than two hours permitted by the rule). 98-2, Jan. 25, 1984, p .....

## § 5. — Dispensing With Calendar Wednesday Business

§ 5.4 The motion to dispense with Calendar Wednesday business is privileged for consideration before the Wednesday to which the motion applies, is debatable for 10 minutes, five minutes controlled by the proponent of the motion and five by a Member opposed, and requires a two-thirds vote for adoption. 97-2, Sept. 21, 1982, pp 24403, 24404. See also 98-2, Jan. 24, 1984, p .....

§ 5.5 On a day set aside under clause 7 of Rule XXIV for a call of the committees to consider reported bills on Calendar Wednesday, on which day a joint session had also been scheduled to receive a message from the President, the Speaker announced that he would exercise his authority to declare a recess at a time certain to make security preparations in the Chamber but that Calendar Wednesday business, if not completed at that time, would resume following the joint session. 98-2, Jan. 25, 1984, p .....

## § 6. District of Columbia Business

§ 6.9 District of Columbia business is in order on the second and fourth Mondays of the month before or after other business (such as motions to suspend the rules), and the fact that the House has considered some District of Columbia business before motions to sus-

pend the rules does not affect the eligibility of such further business after suspensions have been completed. 98-2, Sept. 17, 1984, p .....

## § 7. One-minute Speeches

§ 7.2 The Speaker announced his intention to recognize for one-minute speeches after completion of the first item of legislative business, rather than at the beginning of the day. 98-1, Nov. 10, 1983, p .....

§ 7.3 The order of recognition for one-minute speeches prior to legislative business is within the discretion of the Chair and is not subject to challenge on a point of order. 98-1, Nov. 15, 1983, p .....

§ 7.5 Recognition for one-minute speeches is within the discretion of the Chair, who may decline recognition until a later time or place in the legislative day (e.g., to follow a scheduled recess). 98-2, May 16, 1984, p .....

§ 7.10 *Delete and Insert*: Recognition of Members for "one-minute speeches" prior to legislative business is within the discretion of the Speaker, who may announce his intention to alternate recognition between majority and minority members for one hour before recognizing a Member to call up scheduled legislative business. 97-1, June 26, 1981, p 14351. While the Chair's calculation of time under the "one-minute rule" is not subject to challenge, the Chair endeavors to recognize majority and then minority members by allocating time in a nonpartisan manner. 97-2, Aug. 4, 1982, p 19319. In 1984, the Speaker announced a new policy in extending recognition for one-minute speeches requiring the alternation of recognition between majority and minority members in the order in which they seek recognition. 98-2, Aug. 8, 1984, p ..... The Speaker announced the continuation of this policy during the 99th Congress. 99-1, Jan. 3, 1985, p 420.



§ 7.11 Under the Speaker's power of recognition as traditionally exercised prior to legislative business, a Member can be recognized for a "one-minute speech" only once, and a second unanimous-consent request on that day will not be entertained. 99-1, May 1, 1985, p 9995.

§ 7.12 While under Rule IX a resolution raising a question of the privileges of the House takes precedence over all other questions except the motion to adjourn, the Speaker may pursuant to his discretionary power of recognition under clause 2, Rule XIV, entertain unanimous-consent requests for "one-minute speeches" pending recognition of a Member to raise a question of privilege, since such unanimous-consent requests, if granted, temporarily waive the standing rules of the House relating to the order of business. In one instance, the Speaker temporarily declined to recognize a Member to raise a question of the privileges of the House involving the official conduct of three (unnamed) sitting Members for "one-minute speeches," pending notification by that Member to the Members concerned. 99-1, July 10, 1985, p 18396.

## § 8. Special-order Speeches

§ 8.1 A Member may not be recognized for two special-order speeches on the same legislative day where the House has remained in (virtually) continuous session and special orders have been interrupted by the resumption of legislative business. 99-1, Apr. 23, 1985, p 9086.

§ 8.5 In a similar instance, after legislative business had been completed, there began a series of special-order speeches, all on the subject of prayer in public schools, that continued all night until the House adjourned at 8:52 a.m., the next day, with special orders lasting some 19 hours and 22 minutes. 98-2, Mar. 5, 1984, p .....

§ 8.6 Although it is true that legislative business generally does not take place after special-order speeches have begun, the filing of special rules (and reports thereon) from the Committee on Rules during such times is permitted, and unanimous consent is not required. 98-1, Nov. 4, 1983, p .....

And while the Chair will not ordinarily entertain unanimous-consent requests involving legislative business during "special-order speeches" when no further legislative business is scheduled, he may entertain a request for a late filing of a report when assured that the minority has no objection to the request or to its being made during special orders. 99-1, Nov. 21, 1985, p .....

§ 8.7 The Chair announced that he would entertain special-order speeches with the understanding that the House might return to legislative business later in the day, and gave assurances that Members would receive adequate notice of the resumption of business. 98-2, Oct. 10, 1984, p .....

In a similar announcement, the Speaker stated that he would entertain one or more special-order speeches previously granted for the day, not necessarily in the order in which granted, with the understanding that further legislative business scheduled for the day, and possible roll call votes, would follow such speeches, and that other special-order speeches might follow all legislative business. 98-2, Oct. 4, 1984, p .....

§ 8.8 Unanimous-consent requests to address the House for up to one hour may specify the subject of the special order, and the occupant of the Chair during that special order may enforce the rule of relevancy in debate if the special order has been permitted only on that subject (Rule XIV clause 1). 98-2, Jan. 23, 1984, p .....

§ 8.9 In 1984, the Speaker's directive that television cameras covering special-order speeches of the House at the completion of

legislative business include periodic wide-angle coverage of the entire House Chamber was held to be consistent with the authority conferred upon the Speaker under clause 9 of Rule I to devise and implement complete and unedited audio and visual coverage of the proceedings of the House. 98-2, May 10, 1984, p ..... Subsequently, the Speaker took the floor for a "one-minute speech" to respond to criticisms that he had unfairly exercised his authority under clause 9 of Rule I to direct periodic wide-angle television coverage of the House Chamber during special-order speeches, and to announce that such coverage would include a running caption at the bottom of the screen explaining that the legislative business had been completed. 98-2, May 14, 1984, p .....

§ 8.10 In 1984, the Speaker announced a new policy for recognition for special-order requests: (1) alternate recognition between majority and minority members in the order in which they seek recognition; (2) recognize Members for special-order speeches first who want to address the House for five minutes or less, alternating between majority and minority members, otherwise in the order in which permissions were granted; (3) then recognition of Members who wish to address the House for longer than five minutes and up to one hour, alternating between majority and minority members in the order in which permissions were granted by the House. 98-2, Aug. 8, 1984, p ..... The Speaker announced the continuation of this policy during the 99th Congress. 99-1, Jan. 3, 1985, p 420.

§ 8.11 Pursuant to the Speaker's guidelines of Aug. 8, 1984, recognition for five-minute special-order speeches occurs in the order in which they were requested, alternating between majority and minority members with each Member controlling his own time (absent unanimous consent to permit recognition out of that order). 99-1, Oct. 21, 1985, pp 28128-30.

## § 9. — Scheduling and Sequence of Special-order Speeches

§ 9.8 Instance where a minority member sought unanimous consent (objected to by a majority member) that four designated minority members be granted recognition for the first four hours of special orders at the end of legislative business after each projected legislative day for the balance of that session. 98-2, Jan. 23, 1984, p .....

§ 9.9 Where legislative business has been completed prior to the announced time for a recess, the Speaker may in his discretion recognize some Members for special-order speeches until the declaration of a recess and may then recognize other Members for special orders following the recess (for a joint session to receive a message from the President). 98-2, Jan. 25, 1984, p ..... In the 99th Congress, on a day when the Speaker had been authorized to declare recesses subject to the call of the Chair to prepare for a joint session to receive a message from the President, the Chair indicated at the conclusion of legislative business that he would recognize Members for special-order speeches up until the time for a recess to clear the Chamber, and would recognize other Members who wished to speak following the joint session. 99-1, Nov. 21, 1985, p .....

§ 9.10 Pending a unanimous-consent request to permit a Member to reserve time for special-order speeches for each day during the following two weeks, the Speaker pro tempore indicated that there was no fixed practice for scheduling days in advance for special orders. 98-2, May 17, 1984, p .....

## B. MOTIONS TO SUSPEND THE RULES

### § 10. In General; Effect of Motion

§ 10.8 By unanimous consent, the House agreed to postpone further consideration of a motion to suspend the rules and agree to a resolution, with debate and the vote on that motion to become the unfinished business on the following day. 98-2, July 24, 1984, p .....

§ 10.12 Instance where a privileged motion to recede and concur in a Senate amendment with an amendment was withdrawn pending the reading in full of the proposed House amendment, and a motion to suspend the rules and recede and concur with that amendment was thereafter offered (to avoid reading the House amendment). 97-2, Dec. 20, 1982, p .....

### § 12. Recognition to Offer Motion

§ 12.1 It is within the discretion of the Speaker under Rule XXIII to confer recognition for motions to suspend the rules on any Member, and the Chair need not recognize for unanimous-consent requests to designate particular Members to be recognized. 99-2, Sept. 22, 1986, p .....

### § 13. Seconding the Motion

§ 13.1 Where a bill proposed to be passed under suspension of the rules has not been printed for one legislative day, it may not be considered unless the House orders a second on the motion. 97-1, Dec. 16, 1981, p 31851. Indeed, it is the duty of the Chair to inquire whether a second is demanded on all motions to suspend the rules where the measure as proposed to be passed has not been printed and available for one legislative day (clause 2 of Rule XXVII). Where the Chair learns after debate has begun on the motion that the bill's manager has included additional amendments

that have not been available for one legislative day, the Chair will direct the Clerk to rereport the title of the bill and then inquire whether a second is demanded. 98-2, Aug. 6, 1984, p .....

§ 13.3 The constitutional right of a Member to demand the yeas and nays or the right under clause 5(a) of Rule I to demand a recorded vote do not apply to the question of ordering a second on a motion to suspend the rules, as clause 2 of Rule XXIII only permits the ordering of a second by tellers if a quorum is present (5 Hinds §§ 6032-36; 8 Cannon § 3109). 97-1, Dec. 16, 1981, p 31851.

§ 13.6 While under the precedents (8 Cannon § 3420) a motion to suspend the rules on which a second has been ordered may not be withdrawn except by unanimous consent, where a second is not required on a motion to suspend the rules under clause 2 of Rule XXVII—the bill having been available for one legislative day—the motion may be withdrawn by its proponent at any time before the Chair puts the question and a voice vote is taken thereon. 97-1, July 27, 1981, pp 17561-63.

### § 14. — Recognition to Demand a Second

§ 14.9 The Member demanding the second and not the Member objecting to the unanimous-consent request that a second be considered as ordered is entitled to recognition for debate against the motion to suspend the rules, and it is too late to challenge the Member demanding the second as not being opposed after the second is ordered by the House. 97-1, Dec. 16, 1981, p 31851.

### § 15. Time for Debate on the Motion

§ 15.1 Forty minutes of debate on a motion to suspend the rules is equally divided and

controlled by the maker of the motion and the Member demanding the second, who need not utilize all the time allotted them but who may yield back any portion thereof. 97-1, Dec. 16, 1981, p 31851.

§ 15.2 *Delete and Insert*: By unanimous consent, debate on a motion to suspend the rules may be extended from 40 minutes to a longer period, the time to be equally controlled and divided. 86-2, Mar. 3, 1960, p 4388; 97-1, Aug. 4, 1981, p 19520.

§ 15.5 While the manager of a motion to suspend the rules has the right to close debate thereon (97-1, Sept. 21, 1981, p 21420), the Chair attempts to evenly alternate recognition between the majority and minority in order that a comparable amount of time remains for closing speakers on both sides. 98-2, Oct. 2, 1984, p .....

§ 15.7 Although under clause 3 of Rule XXVII a Member opposed to a motion to suspend the rules is entitled to control 20 minutes of debate in opposition to the motion even where a second is not required under clause 2 of that rule where a printed copy of the bill has been available for one legislative day, the Chair will allocate 20 minutes to the ranking minority member of the reporting committee absent a timely challenge by another Member prior to the start of debate. 98-2, May 15, 1984, p .....

## § 16. Amendments to Propositions Under Suspension

§ 16.2 A motion to suspend the rules and pass a measure may include a proposed amendment to the measure, but that motion when pending may be modified to include additional amendments only by unanimous consent. 99-1, June 4, 1985, p 13986. *Note*: The manager of a motion to suspend the rules and pass a bill as amended should himself request unanimous consent to modify his motion, rather than yield to another Member for that

purpose, or should ask unanimous consent (once a second is ordered) to withdraw the original motion and offer a new motion.

## § 17. Voting on the Motion

§ 17.1 A motion to suspend the rules may be agreed to by two-thirds of the Members voting yea or nay, a quorum being present, and Members voting "present" are only counted to establish a quorum and not to determine a two-thirds majority. 97-1, Dec. 16, 1981, p 31856; 98-1, Nov. 15, 1983, p .....

§ 17.6 In the 97th Congress, the Speaker's authority to postpone votes on motions to suspend the rules was transferred from Rule XXVII to Rule I clause 5. *Manual* § 907. Under this rule, the Speaker may announce that roll call votes will be postponed until the following day after debate on motions to suspend the rules, or at such other time as subsequently announced by the Chair. 98-1, Nov. 15, 1983, p .....; 98-1, Nov. 16, 1983, p .....

§ 17.9 Where the Speaker has, pursuant to clause 5 of Rule I, postponed further proceedings on a motion to suspend the rules where objection to the voice vote is made based upon the absence of a quorum, it is then too late to demand the yeas and nays on the motion until the Speaker puts the question de novo as unfinished business at a subsequent time. 98-2, May 15, 1984, p .....

## C. SPECIAL "RULES" OR ORDERS

### § 18. Power of Rules Committee Generally

§ 18.1 Pursuant to clause 4(a), Rule XI the Committee on Rules has the authority to report to the House resolutions providing an "order of business," and that includes the authority to recommend consideration of a



measure after the vote on, and passage of, a separately pending resolution. 99-2, Apr. 15, 1986, p ..... (H. Res. 415, providing for consideration of a joint resolution relating to Central America and waiving points of order against H.R. 4515, urgent supplemental appropriations, fiscal 1986).

§ 18.2 Nor does a point of order lie against a special order of business reported from the Committee on Rules waiving points of order against or altering procedures governing consideration of a measure, where a law cited as preventing consideration does not constitute a rule of the House. 97-2, June 10, 1982, p 13352.

§ 18.6 Where statutory provisions are enacted as an exercise of the rulemaking powers of the House and the Senate (Pub. L. No. 99-83, § 722(u)), the House retains the constitutional right to change those rules at any time by adopting a special order reported from the Committee on Rules directly or indirectly altering the statutory procedure. 99-2, Apr. 16, 1986, p .....

§ 18.9 98-2, Aug. 8, 1984, p .....

§ 18.15 Special order reported from the Committee on Rules, waiving points of order against consideration of a Senate bill on the Speaker's table and, *inter alia*, permitting immediate consideration in the House without intervening motion, permitting one amendment to substitute text of introduced House bill, the previous question considered as ordered on amendment and bill to final passage. 97-1, Oct. 29, 1981, p 26055.

## § 19. Providing for Consideration of Measures; "Open" and "Closed" Rules

§ 19.1 In interpreting the language of a special order adopted by the House, the Chair will not look behind the language of the resolution itself where no ambiguity exists therein. 99-2, June 18, 1986, p ..... In this in-

stance, where a special order adopted by the House permitted the offering of the first amendment and the second amendment as printed in the Record by and if offered by a designated Member, that Member was permitted to offer the "first" amendment printed in the Record, despite arguments from members of the Committee on Rules that it was not the amendment intended to be made in order when the special order was reported to the House.

### Examples of "Open" Rules—98th Congress

§ 19.47 A resolution waiving points of order against consideration of joint resolution not reported for three days; providing an "open" rule; waiving points of order against nongermane committee amendment to preamble; after amendments to preamble, consider the text and preamble of another joint resolution as one amendment in the nature of a substitute. 98-1, Mar. 16, 1983, p .....

§ 19.48 Resolution providing an "open" rule and waiving, *inter alia*, points of order against consideration of a bill for failure of the committee report to recite on its cover that minority views were included therein. 98-2, June 20, 1984, p .....

§ 19.49 Resolution providing "open" rule and waiving points of order against consideration of bill providing new budget authority for fiscal year 1985 before adoption of budget resolution; consider committee substitute as original bill for amendment by titles, and waiving points of order against said substitute containing specific road legislation. 98-2, June 7, 1984, p .....

§ 19.50 First instance of special order reported from the Committee on Rules, providing preliminary secret session general debate on a bill, and terminating consideration of the bill for amendment under the five-minute rule after a specified period of consideration in the Committee of the Whole. 98-1, July 14, 1983, p ..... *Note:* An example of a special order

otherwise constituting an "open" rule for amendment under the five-minute rule in Committee of the Whole, but with a termination of consideration (and the ordering of the previous question) at the end of a number of hours, was the second special order (H. Res. 179) on H.J. Res. 13, 98th Cong., adopted May 4, 1983.

§ 19.51 Resolution providing an "open" rule, and, *inter alia*, waiving points of order against an amendment to insert House-passed language containing an appropriation. 98-2, Mar. 13, 1984, p .....

§ 19.52 Special order reporting a "modified open" rule, and permitting consideration of the text of another bill as an original bill for amendment under the five-minute rule, and prohibiting further amendments to the substitute at the expiration of 10 hours of consideration under the five-minute rule. 98-1, Nov. 9, 1983, p ..... *Note:* This is a recent example of a special order terminating consideration under the five-minute rule after a number of hours of consideration—prior even to initial consideration of the bill for amendment. See 98-1, Oct. 19, 1983, p ....., for a similar instance.

§ 19.53 Pursuant to a special rule authorizing the Chairman of the Committee of the Whole at his discretion to designate when a particular title of a bill would be open to amendment during the five-minute rule, the Chair designated that title open to amendment while another title was pending. 98-1, July 20, 1983, p .....

#### Examples of "Modified Closed" Rules—1981-1984

§ 19.54 Form of special order reported from the Committee on Rules providing a "modified closed" rule, permitting the offering of only such "conforming and perfecting" amendments from the reporting committee as the Chairman of the Committee of the Whole in his discretion shall entertain. 98-2, Apr. 11, 1984, p .....

§ 19.55 Resolution reported from Committee on Rules, waiving all points of order against consideration of omnibus budget reconciliation bill, providing a "modified closed rule" permitting only designated amendments if offered by ranking minority member of Budget Committee in specified order, and permitting two motions to recommit, one "straight" motion and one designated motion with instructions containing a specified portion of an amendment in the minority committee print. 97-1, July 29, 1981, p 18030.

§ 19.56 Procedure in Committee of the Whole pursuant to special order providing "modified closed rule" permitting only two designated Members to offer unspecified amendments to omnibus reconciliation bill. 97-1, June 26, 1981, p 14356.

§ 19.57 Where a special order provides a "modified closed" rule permitting only one specified amendment to a bill but not permitting pro forma amendments for debate, a Member can offer a pro forma amendment only by unanimous consent. 97-2, Aug. 3, 1982, p 18965.

§ 19.58 The Committee on Rules reported a "modified closed" rule permitting a designated nongermane substitute to be offered only in Committee of the Whole but requiring a motion to recommit with instructions to be germane if offered in the House. 97-2, Aug. 5, 1982, p 19662.

§ 19.59 The Committee on Rules issued a "committee print" containing the text of a primary committee amendment in the nature of a substitute for a reported bill, together with 69 floor amendments to be made in order to that text, including amendments recommended by sequentially reporting committees and an index of all amendments and their proponents, to facilitate the amendment process under a "modified closed" rule permitting only those amendments in the order designated therein. 98-2, June 11, 1984, p ..... *Note:*

The committee print device afforded Members one mark-up document, with page and line numbers of the perfecting amendments geared to the page and line numbers of the substitute as printed therein. The rule also isolated those four areas in which contradictory and conflicting amendments were made in order, and let only the last amendment of each group which was adopted stand.

§ 19.60 Procedure for consideration of a bill pursuant to a "modified closed" rule providing only for consideration of a committee amendment in the nature of a substitute, considered as read, and designated amendments thereto, to be considered in a designated order. 98-2, June 12, 1984, p .....

§ 19.61 Rare instance where the Committee on Rules reported a special order providing a "modified closed" rule for consideration of a measure in the House, with one amendment considered *automatically* pending and with the previous question considered ordered on the amendment and on the measure. 98-2, Sept. 20, 1984, p ..... For a similar instance, see 98-2, Oct. 9, 1984, p .....

#### Examples of Special Rules Adopted in the 99th Congress

§ 19.62 Special order reported from Committee on Rules providing alternative procedures for discretionary secret session and subsequent public consideration of a joint resolution pursuant to expedited "closed rule" procedures contained in existing law for "approval of obligated funds," and then, upon rejection of that joint resolution, for subsequent consideration of another specified joint resolution under a "modified closed" rule permitting only one minority alternative as a substitute. 99-1, Apr. 23, 1985, p 8964.

§ 19.63 Special order reported from Committee on Rules, providing that if a point of order is sustained against a certain paragraph in a general appropriation bill containing unauthorized items, an amendment reinserting

authorized amounts therein may be offered, and waiving other points of order against said amendment; "modified closed rule in part" for consideration of bill, changing the amendment process under clause 2(d), Rule XXI to permit two specified legislative amendments to bill, and two perfecting amendments to one amendment, with priority over the motion to rise and report but otherwise precluding limitation and retrenchment amendments following adoption of that motion. 99-1, June 6, 1985, p 14570.

§ 19.64 Where two legislative committees to which a measure had been jointly referred reported tax and tariff provisions causing the bill to be sequentially referred to the Committee on Ways and Means, which committee then reported the measure with different tax and tariff provisions, the Committee on Rules reported a "modified closed" special order permitting the House to select between two substitute texts representing the differing tax and tariff provisions, and waiving certain points of order against consideration of those amendments. 99-1, July 25, 1985, pp 20602 et seq.

§ 19.65 The Committee on Rules reported a special order providing a self-executing "closed" rule adopting three specified amendments to the "deficit reduction" bill—a component of the reconciliation process wherein revenue and spending recommendations were separately reported. 99-1, Oct. 31, 1985, pp 29807-809.

§ 19.66 Special order reported from the Committee on Rules providing rule "open in part" and "modified closed" in part, linking general appropriation bill with unrelated legislative proposal, permitting only certain amendments to title II following proper amendments to appropriation title under five-minute rule, "hopping" from "open" procedure to "modified closed" procedure by motion to rise and report, adoption of which



caused designated text to become title II of bill for separate debate and amendment in the Committee of the Whole. 99-2, June 25, 1986, p .....

§ 19.67 Special order providing a "modified closed" rule for the further consideration of a bill already considered for general debate and specified amendments in the Committee of the Whole pursuant to a previous rule, consider only amendments printed in the report of the Committee on Rules accompanying the resolution in a designated order by *major issue*: (1) general debate, equally divided on the issue of funding levels in committee substitute, followed by consideration of two amendments in prescribed order, not amendable or divisible, relating to funding levels, and if both adopted only the latter to be considered reported back to House ("King-of-Mountain"). 99-2, Aug. 7, 1986, p .....

§ 19.68 Special order reported from Committee on Rules discharging several committees from an unreported bill consisting of certain "compromise components" considered and reported to the House as separate bills; general debate controlled by party leaders; "modified closed" rule providing for (1) self-executing adoption of amendments specified in special order; and (2) en bloc consideration of "technical" amendments printed in Rules Committee report if offered by Majority Leader, but permitting sponsors of components to insert statements thereon in Record as if actually delivered in debate. 99-2, Sept. 10, 1986, p .....

§ 19.69 Special order of business reported from the Committee on Rules, providing a rule "modified closed in part;" waiving points of order against appropriations in legislative bill; two reporting committees' amendments printed in bill considered as adopted in Committee of the Whole and in the House (self-executing adoption); specified section not amendable directly or indirectly by amendments affecting subject matter until remainder

of bill has been considered for amendment; then permitting only an amendment striking out the section if offered by ranking minority member of primary committee or designee. 99-2, Sept. 16, 1986, p .....

§ 19.70 Special order reported from the Committee on Rules, providing rule "modified open in part" and "modified closed in part;" permitting only germane amendments printed in Record to all but last title and pro forma amendments for debate; no direct or indirect amendment *changing, affecting or modifying* last title except amendment printed in accompanying report from the Rules Committee if offered by specified Member or designee; no further amendments to bill in order following disposition of that amendment to last title. 99-2, Sept. 17, 1986, p .....

## § 20. Providing for Consideration of Unreported Measures

§ 20.1 *Note*: The Committee on Rules under Rule X, clause 1(q) has the authority to report a special order providing for the discharge of a standing committee from a measure pending before that committee, even though that committee may have ordered reported another similar bill on the same subject but was not able to file its report. See 99-2, Oct. 16, 1986, p ....., and H. Res. 596, discharging the two committees to which a bill had been referred. In one instance, a special order discharged six committees from an unreported bill similar to a previously reported comprehensive trade reform bill. 99-2, May 15, 1986, p .....

A special order may permit consideration of a previously unnumbered and unsponsored measure, as that measure comes into existence by virtue of adoption by the House of the special order. 99-2, Apr. 16, 1986, p .....

§ 20.17 Special order reported from Committee on Rules providing for consideration in the House of two measures in a designated



order and discharging an unreported bill to amend an act (not yet finally passed by both Houses), ordering the previous question, and permitting only a straight motion to recommit. 97-1, July 31, 1981, p 18872.

§ 20.18 Procedure for consideration of a proposition not reported from committee pursuant to a special order providing that the House automatically resolve into the Committee of the Whole for its consideration, with general debate to be divided between a Member in favor of the proposition and a Member opposed. 97-2, Oct. 1, 1982, pp 27178, 27179.

§ 20.19 The Committee on Rules reported a special order discharging the Judiciary Committee from an unreported joint resolution proposing a constitutional amendment, and providing a "modified closed" rule for immediate consideration of two substitutes in a designated order. 97-2, Oct. 1, 1982, p 27172.

§ 20.20 Special order reported from Committee on Rules discharging two committees from a concurrent resolution expressing the sense of Congress on a foreign policy issue; to be considered in the House without intervening motion under a "closed" rule. 98-2, Apr. 12, 1984, p .....

§ 20.21 A special order was reported from the Committee on Rules providing for consideration of the text of an unreported bill introduced by a member of that committee in lieu of reported bill as original text for amendment, and altering the consideration of the substitute text by titles to permit the Chairman of the Committee of the Whole to determine when a designated title would be considered for amendment under a "modified closed" procedure. 98-2, May 8, 1984, p .....

§ 20.22 A resolution provided for the consideration in the House of a bill reported by one of two committees to which referred, and waived all points of order against consideration. 98-2, June 29, 1984, p .....

§ 20.23 Special order providing for the consideration of an unreported joint resolution making continuing appropriations in the House, debatable for one hour, with the previous question considered as ordered without intervening motion except one motion to recommit. 98-2, Oct. 5, 1984, p .....

§ 20.24 Adoption by the House of a special order reported from the Committee on Rules authorizing the Speaker to declare the House resolved into the Committee of the Whole to consider an unreported concurrent resolution on the budget has the inevitable effect, under the precedents, of "discharging" the Budget Committee consistently with the Congressional Budget Act. 99-2, Mar. 13, 1986, p .....

§ 20.25 A special order was reported from the Committee on Rules, "linking" consideration of unreported, unsponsored House joint resolution originated by adoption of special order, with subsequent consideration of a supplemental appropriation bill only after a vote on final passage of the joint resolution, by making waivers of certain points of order contingent on the vote on final passage, and then authorizing engrossment of one combined bill in lieu of separate engrossment of joint resolution if both measures pass the House. 99-2, Apr. 15, 1986, p .....

## § 21. Amending Special Rules; Modifications After Adoption

§ 21.1 A special order reported from the Committee on Rules providing for consideration of a bill on a certain subject may not be amended to permit additional consideration of a nongermane amendment to the bill. 97-2, Aug. 13, 1982, pp 20976, 20977.

§ 21.2 By unanimous consent, the House may modify the terms of a special order reported from the Committee on Rules previously adopted by the House. 98-1, July 14, 1983, p ..... Unanimous-consent requests to change

the basic structure and operation of a special order adopted by the House, providing for consideration of a measure in the Committee of the Whole, should be made in the House and not in the Committee of the Whole; therefore, requests to alter the text of a committee substitute to be considered as original text for amendment in the Committee of the Whole, and to alter the counting of time under a limitation on debate and amendment in Committee of the Whole (to exclude time consumed by purposes other than debate) are made in the House and not in the Committee of the Whole. 99-2, Aug. 5, 1986, p .....

§ 21.3 A privileged resolution reported from the Committee on Rules is not amendable unless the manager yields for that purpose or the previous question is not ordered. 98-2, Feb. 22, 1984, p .....; 99-2, Sept. 24, 1986, p ..... However, by unanimous consent, the ranking minority member of the Committee on Rules who was controlling debate time on a resolution reported from that committee was permitted to offer an amendment to that resolution (amending a Senate amendment to a House concurrent resolution with a further amendment to that already contained in the resolution). 99-2, Oct. 17, 1986, p .....

§ 21.9 Only the House, and not the Committee of the Whole, may by unanimous consent alter the terms of a special order previously agreed to by the House. Also, where the House has adopted a special rule permitting the consideration of amendments in the Committee of the Whole only in a prescribed order, the Committee of the Whole must rise to permit the House, by unanimous consent, to change that order of consideration. 99-2, Sept. 11, 1986, p ..... Likewise, where the House has adopted a special order of business providing a "modified closed" rule permitting consideration only of amendments as printed in the accompanying Committee on Rules report, including certain amendments en bloc, unanimous consent in the House is required to permit separate consideration in the Com-

mittee of the Whole of one of the amendments to be considered en bloc. 99-2, Sept. 11, 1986, p .....

§ 21.10 *Delete and Insert:* The Committee on Rules may report a privileged resolution modifying the effect and operation of a previous special order reported by that committee and adopted by the House. 96-2, Apr. 30, 1980, p 9467. Such a resolution may provide additional procedures to govern the further consideration of a measure already pending in Committee of the Whole, including limiting further consideration of amendments to a total amount of time, and prohibiting further debate or amendments when the limitation has expired. 98-1, May 4, 1983, p .....

§ 21.11 An appropriate time to request unanimous consent to alter the terms of a pending special order of business reported from the Committee on Rules is after its adoption by the House and prior to consideration in Committee of the Whole (which cannot alter terms of an adopted rule), where the manager of the rule declines to yield for that purpose during consideration. 99-2, Sept. 24, 1986, p .....

§ 21.12 Because the House, and not the Committee of the Whole, has the authority to change the substantive terms of a special order of business previously adopted by the House, the House may, by unanimous consent, delegate to the Committee of the Whole authority to entertain unanimous-consent requests to change procedures contained in an adopted House special order. 99-2, Aug. 11, 1986, p ..... Pursuant to such delegation of authority, the chairman of the managing committee obtained unanimous consent to offer en bloc certain amendments proposed by other Members, and that the original proponents of said individual amendments be permitted to insert their statements in the Record before disposition of the amendments (where the special order adopted by the House govern-

ing consideration of the bill specified that the amendments in question be considered only in a certain order, to be offered by the designated proponents). 99-2, Aug. 14, 1986, p .....

§ 21.13 Where the House had adopted a special order authorizing a secret session of the Committee of the Whole for initial debate on a joint resolution, to be followed by subsequent general debate in public session, the House, by unanimous consent, waived the requirement for a secret session as a precondition

for public debate and authorized all general debate to be conducted in public pursuant to limitations contained in existing law. 99-1, Apr. 23, 1985, p 8964.

§ 21.14 In one instance, following adoption of a "modified closed" rule permitting the text of one joint resolution as a substitute for another, the House, by unanimous consent, authorized the consideration of the text of a third joint resolution (a compromise text) in lieu of the text to be first considered. 99-1, July 25, 1985, pp 20602 et seq.

## Chapter 22

# Calendars

### § 1. In General; The Union Calendar

§ 1.6 A private bill erroneously referred to the Union Calendar may be transferred to the Private Calendar by direction of the Speaker (*Manual* § 742). 98-2, Apr. 26, 1984, p .....

### § 3. — Screening Procedures and Objections; Objectors' Committees

§ 3.1 99-1, Mar. 28, 1985, p 6543.

### § 4. Private Calendar

§ 4.1 By a division vote, the House adopted a motion to lay on the table an appeal from a ruling of the Speaker pro tempore that it was in order for the Chair to entertain a motion to dispense with the call of the Private Calendar on the third Tuesday of the month, which motion and appeal came over as unfinished business from the preceding legislative

day, and the House then adopted the pending motion to dispense with the further call of the Private Calendar. 97-1, Nov. 17, 1981, pp 27772, 27773.

§ 4.10 A motion to dispense with the call of the Private Calendar on the third Tuesday of each month (when the call of that calendar is within the discretion of the Chair) is likewise in order in the Chair's discretion, although Rule XXIV clause 6 only specifically provides for a motion to dispense with the call on the first Tuesday of each month, since no rule or precedent prohibits the motion and it is consistent with the discretionary authority of the Chair to dispense with the call of the entire calendar. 97-1, Nov. 17, 1981, p 27770.

§ 4.13 For a summary of the history and procedures governing consideration of bills on the Private Calendar, clause 6, Rule XXIV, as agreed upon by the majority and minority official objectors, see 99-1, May 9, 1985, p 11280.



## Chapter 23

## Motions and Requests

## A. INTRODUCTORY

## § 1. In General; Offering Motions

§ 1.6 Pursuant to clause 1, Rule XVI, the Chair may demand that a Member's motion be reduced to writing and in the proper form. Where a motion is pending and a Member offers a preferential motion which the Chair requires be put in writing in the proper form, the Chair has permitted that Member an opportunity to reduce the preferential motion to writing before putting the question on the pending motion. 99-2, July 24, 1986, p. ....

§ 1.8 A Member desiring to offer a motion in the House must actively seek recognition from the Chair before another motion to dispose of the pending question has been adopted, and the fact that he may have been standing at that time is not sufficient to confer recognition. 97-1, Nov. 22, 1981, p. 28751.

§ 1.9 A motion is not pending until the Chair has recognized a Member, who then offers the motion. 98-1, Oct. 27, 1983, p. ....

§ 1.10 A Delegate or the Resident Commissioner from Puerto Rico may make any motion that a Member may make in the House (except to reconsider) and may object to a unanimous-consent request. 98-2, June 29, 1984, p. .... A Delegate to the House may offer the motion to adjourn (serving as "acting Majority Leader"). 97-1, Jan. 9, 1981, p. 248. *Note:* A nonvoting Delegate may offer any motion except the motion to reconsider, but he may not vote on the motion so offered.

## § 2. Unanimous-consent Requests

§ 2.6 In order to object to a unanimous-consent request, a Member must stand and be identified for the Record (and the Chair may in his discretion identify for the Record all Members he notices objecting). 98-2, Oct. 4, 1984, p. ....

§ 2.11 Debate under a reservation of objection to a pending unanimous-consent request to extend debate on an issue may go to the merits of the request and of the issue, subject to a demand for the "regular order" to preclude further discussion, but not subject to a point of order that the debate be confined to the request rather than the issue to be debated. 99-1, Dec. 10, 1985, p. ....

§ 2.13 99-1, Dec. 17, 1985, p. ....

§ 2.20 By unanimous consent, a previous unanimous-consent request permitting all Members to revise and extend their remarks on a particular measure was vacated. 98-1, Nov. 15, 1983, p. ....

§ 2.21 The Chair recognized a Member to make a unanimous-consent request to vacate the proceedings by which a resolution, considered by unanimous consent earlier in the day, had been agreed to. 99-2, Apr. 22, 1986, p. ....

## § 3. Withdrawal of Motions

§ 3.1 Any motion in the House may be withdrawn before action thereon, and unanimous consent is not required. 97-2, Dec. 20, 1982, p. ....

§ 3.9 Instance where a privileged motion to recede from disagreement and concur in a



Senate amendment with an amendment was withdrawn pending the reading in full of the proposed House amendment, and a motion to suspend the rules to recede and concur with that amendment was thereafter offered. 97-2, Dec. 20, 1982, p .....

## B. THE MOTION TO TABLE

### § 4. In General

§ 4.3 Under Rule XVI clause 4, the motion to lay on the table is not debatable. 98-2, Jan. 24, 1984, p .....

§ 4.9 The motion to table a resolution raising a question of the privileges of the House is in order after the resolution is read and before debate thereon, and the motion to table is not debatable, except by unanimous consent. 98-2, Oct. 4, 1984, p .....

### § 5. As Related to Other Motions

§ 5.1 99-1, July 10, 1985, p 18400 (the motion to table takes precedence over the previous question).

§ 5.7 The motion to lay on the table may be applied to a (debatable) motion to discharge the District of Columbia Committee from consideration of a disapproval resolution, and is decided without debate. 97-1, Oct. 1, 1981, p 22753. The motion to lay on the table is likewise applicable to a privileged motion to discharge the Committee on Ways and Means from further consideration of a resolution disapproving the recommendation of the President to extend most-favored-nation tariff treatment, and may be offered after the privileged motion to discharge has been debated in the House for one hour. 99-2, July 29, 1986, p .....

## C. THE MOTION FOR THE PREVIOUS QUESTION

### § 6. In General

§ 6.7 The Member who has been recognized to call up a measure in the House has priority of recognition to move the previous question thereon. 99-2, Oct. 1, 1986, p .....

### § 7. Precedence and Priorities; Relation to Other Motions

§ 7.6 Pursuant to clause 4, Rule XVI, the motion for the previous question takes precedence over a motion to refer and may be offered before the Member offering the motion to refer is recognized for debate thereon. 99-1, May 8, 1985, p 11073.

### § 9. Debate on Motion

§ 9.4 Pursuant to clause 3, Rule XXVII, where the previous question is ordered on a proposition on which there has been no debate in the House, 40 minutes of debate on that proposition, equally divided between a proponent and opponent, are in order. 99-1, May 8, 1985, p 11073.

### § 10. Effect of Rejection of Motion

§ 10.1 Where the House rejects the previous question, the Member who led the opposition thereto is entitled to one hour of debate and to close debate where he has yielded half of his time to another Member. 97-1, June 25, 1981, pp 14079, 14081.

§ 10.6 *Delete and Insert*: Where the previous question is rejected on a proposition considered in the House, an amendment may be offered and the Chair recognizes the Member leading the opposition to the previous question. 96-1, July 24, 1979, p 20385 [H.J. Res. 74]. In one instance, a majority member who

had led the opposition to the previous question on a resolution adopting the rules was recognized, upon rejection of the previous question, to offer an amendment, where no member who had been opposed to the previous question sought recognition. 92-1, Jan. 22, 1971, pp 140, 142-144.

## D. THE MOTION TO REFER OR RECOMMIT

### § 11. In General; Purpose and Effect

§ 11.1 *Note:* The motion to recommit a conference report derives from Rule XVII clause 1, and not from Rule XVI clause 4, which should be confined to initial final passage only and not to disposition of Senate amendments.

§ 11.2 The ordinary motion to refer under clause 4, Rule XVI is applicable to a resolution raising a question of the privileges of the House and may be offered before the proponent of the resolution is recognized to control debate on the resolution. 99-1, Feb. 7, 1985, p 2220; 99-1, Mar. 4, 1985, p 4277. And a non-debatable motion to refer is in order under Rule XVII clause 1 when the previous question has been ordered on a resolution stating a question of privilege. 98-1, June 29, 1983, p ..... While the motion for the previous question takes precedence over the motion to refer under clause 4, Rule XVI, the motion to commit pursuant to clause 1, Rule XVII may be offered at the conclusion of 40 minutes of debate on a proposition on which the previous question has been ordered without debate. 99-1, May 8, 1985, pp 11073 et seq.

§ 11.8 A motion under Rule XVI clause 4 to refer a measure to committee may be amended, upon rejection of the previous question thereon, to include instructions. 97-2, Aug. 13, 1982, p 20978.

§ 11.14 Pursuant to Rule XVI clause 4, the motion to lay on the table is applicable to the debatable motion to refer. 97-2, Aug. 13, 1982, p 20977.

§ 11.15 A special order providing for the consideration of a proposition in the House and allowing one amendment to be offered, which is silent as to the application of the previous question or any other motion, allows a motion to recommit to be offered pursuant to Rule XVI clause 4, which motion is the prerogative of the minority. 97-2, Sept. 21, 1982, p 24348.

### § 12. When in Order

§ 12.4 A Member seeking to offer a motion to recommit must be on his feet addressing the Chair after the engrossment and third reading of the bill and before the Chair puts the question on passage of the bill. 98-2, June 6, 1984, p .....

§ 12.5 The motion to commit a (privileged) resolution is in order pending the motion for, or after the ordering of, the previous question on the resolution. 98-1, Apr. 28, 1983, p .....; 98-2, Feb. 9, 1984, p .....; 99-1, Jan. 3, 1985, p 411.

§ 12.10 Pursuant to Rule XVI clause 4, a motion to refer takes precedence over a motion to amend, and the Chair recognizes the Member seeking to offer the preferential motion before the less preferential motion is read. 97-2, Aug. 13, 1982, p 20978.

§ 12.11 The motion to commit in order under clause 1 Rule XVII is not applicable to resolutions concerning the order of business since the rule relating to the consideration of reports from the Committee on Rules (clause 4(b) Rule XI) prohibits entertaining any dilatory motion after consideration of the resolution has begun. 89-1, July 26, 1965, p 18087. And if the previous question is ordered no

motion to recommit is in order under that rule. 98-2, Feb. 22, 1984, p .....

### § 13. Who May Offer Motion

§ 13.7 However, the motion to refer a resolution offered as a question of the privileges of the House is in order pending the demand for the previous question or after the previous question is ordered, and is not subject to debate, and a Member offering the motion need not qualify as stating his opposition to the resolution since it has not been reported from committee but has been offered as an original proposition on the floor of the House. 98-1, Apr. 28, 1983, p .....

§ 13.11 While the motion to recommit a bill with instructions is the prerogative of the minority if opposed, a Member (such as the chairman of the committee reporting the bill) who in the Speaker's discretion leads the opposition to the previous question on that motion is entitled to recognition to offer an amendment to the motion to recommit, regardless of party affiliation. 97-1, June 26, 1981, p 14791.

§ 13.13 The motion to recommit a bill pending final passage which is provided in the second sentence of Rule XVI clause 4 is the prerogative of a member of the minority if opposed, and that priority is not diminished by the fact that the minority party may have successfully led the opposition to the previous question on the special order governing consideration of the bill and offered a "modified closed rule" permitting only minority members to offer perfecting amendments to the majority text. 97-1, June 26, 1981, p 14791.

§ 13.14 It is the prerogative of the minority, prior to adoption of the rules, to offer a motion to commit the resolution adopting the rules, but the minority member offering the motion need not qualify as opposed to the resolution. In this instance, the previous question having been ordered on a resolution

adopting the rules of the House, the Minority Leader offered a motion to commit the resolution to a select committee with instructions to report back to the House within two days with an amendment. 98-1, Jan. 3, 1983, p .....

For a similar instance, see 99-1, Jan. 3, 1985, pp 410-413.

### § 14. Motions to Recommit With Instructions

§ 14.3 The Chair does not rule on the propriety of instructions included in a motion to refer prior to the offering of the instructions. 97-2, Aug. 13, 1982, p 20978.

§ 14.4 It is not in order to do indirectly (by a motion to recommit with instructions to report a particular amendment back to the House) that which may not be done directly under the rules of the House by way of amendment. 98-1, Sept. 19, 1983, p .....

### § 15. — Instructions Pertaining to Amendments

§ 15.12 Instance where the previous question having been ordered on a resolution adopting the rules of the House, the Minority Leader offered a motion to commit the resolution to a select committee with instructions to report back to the House within seven calendar days with an amendment. 97-1, Jan. 5, 1981, p 112.

§ 15.13 Instance where a motion to commit under Rule XVII clause 1 was offered to a privileged resolution electing minority members to standing committees, with instructions to a select committee to report back forthwith with an amendment adding additional names to a committee. 97-1, Jan. 28, 1981, p 1146.

§ 15.14 Form of motion to recommit a bill with instructions to delete specified amendments previously adopted in the Committee of the Whole and in the House, as well as adding a new provision, pursuant to a special

rule permitting such motion. 99-2, Aug. 15, 1986, p .....

### § 16. Debate on Motion

§ 16.1 The House in the 99th Congress amended Rule XVI, clause 4 to permit one hour of debate, rather than 10 minutes, upon demand of the majority floor manager of a bill, on a motion to recommit with instructions, time to be equally divided. 99-1, Jan. 3, 1985, p 393.

§ 16.2 The provisions of clause 4, Rule XVI permitting 10 minutes of debate on a motion to recommit with instructions apply only to bills and joint resolutions, and unanimous consent is required in the House to permit debate on a motion to recommit a simple or concurrent resolution with instructions. 99-2, Feb. 5, 1986, p .....; 99-2, June 19, 1986, p .....

§ 16.3 The Member recognized for five minutes in support of her motion to recommit with instructions must use or yield back all of that time, and may not reserve a portion thereof. 97-1, June 26, 1981, p 14792.

§ 16.6 99-1, Dec. 4, 1985, p .....

§ 16.7 Under Rule XVII clause 1, the motion to commit a (privileged) resolution is not debatable after the previous question is ordered on the resolution. 98-2, Feb. 9, 1984, p .....

*Note:* The motion to recommit under clause 1 of Rule XVII may be debatable when offered pending the motion for the previous question. Compare 5 Hinds § 5582, holding that the motion is not debatable if the previous question has been ordered.

§ 16.9 Where the previous question has been ordered on a resolution prior to adoption of the rules, the motion to commit (with or without instructions) is not debatable, but is itself subject to the motion for the previous question to cut off amendment. 97-1, Jan. 5, 1981, p 112.

## E. THE MOTION TO RECONSIDER

### § 17. In General

§ 17.1 While a unanimous-consent agreement may be subject to a motion to reconsider in the House (8 Cannon § 2794), the motion to reconsider is not in order in Committee of the Whole. 97-1, Oct. 5, 1981, p 23154.

§ 17.8 A motion to reconsider a vote is in order on the same day in which it was taken; and after disposition of a conference report and amendments reported from conference in disagreement, it is in order to move to reconsider the vote on a motion disposing of one of the amendments. 98-1, Oct. 5, 1983, p .....

§ 17.9 In the Senate, a second motion to reconsider the vote on passage of a bill is in order if the decision of the Senate was reversed on first reconsideration, such as where a bill is defeated and then passed when first reconsidered. 98-2, Oct. 12, 1984, p .....  
*Note:* The Senate practice in this respect is at variance with that of the House. 5 Hinds § 5685 states that "[t]he motion to reconsider the vote on a proposition having been once agreed to, and the said vote having again been taken, a second motion to reconsider may not be made unless the nature of the proposition has been changed by amendments."

### § 18. Who May Offer

§ 18.1 Any Member may object to the Chair's statement that "without objection" a motion to reconsider a vote just taken be laid on the table, and need not have voted on the prevailing side to make such an objection; but if objection is made, the Chair's statement is of no effect, and only a Member who voted on the prevailing side may offer the motion to reconsider the vote (which may be laid on the table by motion). 99-2, Aug. 15, 1986, p .....



## F. THE MOTION TO POSTPONE

### § 21. In General

§ 21.1 While a motion to postpone indefinitely a motion to consider a resolution disapproving a Presidential recommendation under the Trade Act of 1974 is not debatable under section 152(d)(3) of that act, the House has, by unanimous consent, permitted debate on

that motion, to be equally divided and controlled. 98-1, Aug. 1, 1983, p .....

§ 21.7 The motion to postpone to a day certain is a dilatory motion within the meaning of clause 4(b) of Rule XI, which prohibits any dilatory motion, except one motion to adjourn, pending the consideration of a privileged report from the Committee on Rules (case of first impression). 99-2, Oct. 9, 1986, p .....

## Chapter 24

# Bills and Resolutions

## A. DEFINITIONS AND DISTINCTIONS

### § 1. In General; Kinds of Bills and Resolutions

§ 1.5 Whether a joint resolution or a concurrent resolution is the appropriate legislative form for consideration of certain policy statements is for the House and not the Chair to determine. And where the House has adopted a special order providing for the consideration of a joint resolution, a point of order that a concurrent resolution would be a more appropriate measure by which to express the sense of Congress does not lie. 98-1, Mar. 16, 1983, p .....

§ 1.6 By unanimous consent, the House considered a House and then an identical Senate concurrent resolution expressing the regret of Congress over the assassination of President Sadat of Egypt. 97-1, Oct. 6, 1981, pp 23417, 23428. *Note:* This may have been the first occasion that the House and Senate utilized a concurrent resolution to concurrently express sympathy over the death of a foreign head of

state. Normally separate resolutions are adopted for this purpose.

§ 1.7 The House by unanimous consent considered and agreed to a simple resolution providing that the House adjourn out of respect to American military personnel killed in a terrorist attack in Lebanon. 98-1, Oct. 24, 1983, p .....

*Note:* First example of the House adjourning out of respect to a group of persons, rather than an individual. In a related action the House, by unanimous consent, agreed to a resolution adjourning the House out of respect to the astronaut crew of the "Challenger," killed in the first in-flight tragedy of the space program. 99-2, Jan. 28, 1986, p .....

*Note:* This was the second discerned example of a death resolution adopted by the House on the occasion of the death of a group of people.

§ 1.8 The prohibition in Rule XXII clause 2 against consideration of a private bill to correct a military record does not apply to a private bill which changes the computation of retired pay for a former member of the armed services, but which does not directly correct his military record. 98-2, Sept. 18, 1984, p .....

§ 1.9 Form of bill containing illustration showing format of warning label. 99-2, Feb. 3, 1986, p ..... (S. 1574, the Comprehensive Smokeless Tobacco Health Education Act of 1986).

## B. BILL PASSAGE PROCEDURE

### § 3. In General; Reading

§ 3.3 When a bill is introduced and is immediately considered (before referral or printing) under the provisions of a special order, the bill is read. 97-2, June 24, 1982, pp 15168, 15172.

§ 3.4 By unanimous consent, the third reading and the passage of a House joint resolution were vacated in order to permit the offering of an amendment to the preamble. 99-1, Oct. 9, 1985, p 26982.

### § 6. Enrollment

§ 6.2 A concurrent resolution waiving the requirement that certain bills or joint resolutions be printed on parchment and authorizing their enrollment in such form as may be certified to be truly enrolled is privileged for consideration in the House. 97-2, Dec. 29, 1982, p .....; 98-2, Oct. 11, 1984, p .....

§ 6.3 By unanimous consent, the House considered and passed a *joint* resolution waving the statutory requirement for the printing on parchment of the enrollment of a House joint resolution, prior to consideration of the conference report thereon. 99-1, Dec. 10, 1985, p ..... *Note:* Title 1 USC § 106 permits adoption of a *concurrent* resolution to waive the parchment requirement only "during the last six days of a session." To same effect, see 99-1, Dec. 16, 1985, p .....

§ 6.4 The House passed a joint resolution, considered by unanimous consent, waiving the statutory requirement of printing on

parchment for the remainder of the second session of the 99th Congress, and authorizing enrollment in such form as certified by the Committee on House Administration to be truly enrolled, for certain designated measures. 99-2, Oct. 8, 1986, p .....

### § 7. Corrections in Enrolled Bills

§ 7.3 Instance where the House agreed to a concurrent resolution authorizing the Clerk to make corrections in the enrollment of a House joint resolution before the Senate had passed the joint resolution. 98-2, Aug. 9, 1984, p .....

§ 7.6 For a similar concurrent resolution adopted in the 99th Congress, see 99-1, Dec. 11, 1985, p .....

§ 7.10 By unanimous consent, the House considered and agreed to a concurrent resolution rescinding the approval of another concurrent resolution correcting the enrollment of a joint resolution, and authorizing the Clerk to make another correction in that enrollment. 99-1, Dec. 19, 1985, p .....

### § 8. — As Affecting Conference Reports

§ 8.5 A concurrent resolution, considered by unanimous consent, directed the Clerk to correct the enrollment of a bill on which the conference report had just been adopted. In this instance, the House adopted a concurrent resolution directing the Clerk in the enrollment of a bill (the Omnibus Reconciliation Act of 1981) to make certain corrections, among them a change extending until August 4 the authority of the conferees to insert in the Record a statement explaining certain portions of the bill, such statement to be considered as having been filed at the same time and along with the conference report, and as constituting the statement on the part of the

managers. 97-1, July 31, 1981, pp 18981, 18985.

§ 8.6 In one instance in the 99th Congress, by unanimous consent, the House considered and agreed to a concurrent resolution correcting the enrollment of a joint resolution prior to the consideration of the conference report on that measure. 99-1, Dec. 11, 1985, p .....

## § 9. Correction of Errors in Engrossed Bills

§ 9.1 For a unanimous-consent request authorizing and directing the Clerk to make designated corrections in the engrossment of a bill passed by the House but not yet messaged to the Senate, see 99-2, Oct. 2, 1986, p .....

§ 9.7 By unanimous consent, the Clerk was authorized to make designated substantive changes in the engrossment of a bill just passed by the House. 99-1, Feb. 27, 1985, p 3888. *Note:* These substantive changes reflected amendments inadvertently not offered in the Committee of the Whole, and the Chair required that they be read by the Clerk before entertaining the unanimous-consent request to correct the engrossment.

§ 9.8 By unanimous consent, the Clerk was authorized to make both technical and specified substantive changes in the engrossment of a House-passed bill, and the Clerk was directed to read the proposed substantive changes to the House. 99-1, June 27, 1985, p 17875.

§ 9.9 The House considered and agreed to a resolution offered by the Majority Leader directing the Clerk to make specified technical corrections in the engrossment of a bill just passed by the House. 99-2, May 22, 1986, p ..... *Note:* Normally the unanimous-consent procedure is used to correct grammatical errors, but here legislative counsel had compiled a series of technical changes which could not have been offered in Committee of

the Whole under the "modified closed" rule then in effect.

## § 10. Correction of Senate Measures

§ 10.4 By unanimous consent, the engrossment of a House amendment to a Senate bill was corrected to delete a provision amending the Internal Revenue Code (where the rule governing consideration was based on the premise that such provision, inadvertently included in the substitute considered as original text for amendment, would be deleted, and provided for consideration of a separate House bill containing the provision). 99-2, Oct. 9, 1986, p .....

## § 11. Signing and Signatures

§ 11.3 By unanimous consent, the House considered and agreed to a Senate concurrent resolution rescinding the signature of the designated Speaker pro tempore in signing an enrolled bill and directing the Clerk of the House to correct the enrollment. 99-2, Mar. 11, 1986, p .....

## C. PRESIDENTIAL APPROVAL; THE VETO POWER

## § 12. In General; Constitutional Requirements

§ 12.1 In two veto messages laid before the House at the convening of the second session of the 99th Congress (following a *sine die* adjournment), the President asserted his power to "pocket veto" bills during an adjournment *sine die* between sessions of the same Congress, but nevertheless returned the bills to Congress for its reconsideration. 99-2, Jan. 21, 1986, p ..... *Note:* In *Barnes v Kline*, 759 F2d 21 (D.C. Cir. 1985), the court agreed

with Congress that pocket vetoes, during an adjournment *sine die* between sessions of the same Congress, where authority had been given to officials of the House or Senate to receive messages, were not appropriate.

## § 14. Referral of Veto Messages to Committee

§ 14.13 On the convening day of the second session, when Members had been advised no roll call votes would occur, the Speaker suggested from the Chair that a veto message be referred to committee rather than postponed, since postponement might require a roll call vote, and since a vetoed bill may be reported and called up, or discharged and called up, as privileged at a later date. 99-2, Jan. 21, 1986, p .....

## § 15. Consideration of Vetoed Bills and Veto Messages

§ 15.8 When a veto message is laid before the House, a motion to refer the message to committee takes precedence over the question of reconsideration, the objections of the President to the contrary notwithstanding. 99-1, Mar. 7, 1985, p 4955. When a veto message is before the House for consideration as unfinished business, a motion to refer the message to committee takes precedence over the question of passing the bill, the objections of the President to the contrary notwithstanding, but the motion to refer may be laid on the table. 98-1, Oct. 25, 1983, p .....

## § 16. — Postponement

§ 16.1 When consideration of a veto message is postponed to a day certain, it becomes unfinished business on that day, and may be voted on, referred to committee, or postponed for further consideration as the House determines. 98-1, Oct. 20, 1983, p .....

§ 16.3 By unanimous consent, further consideration of a veto message (on a supplemental appropriations bill) was postponed until the following day. 97-2, Sept. 8, 1982, p 22857.

§ 16.9 By unanimous consent, the House postponed to a day certain, in advance of the Senate override of a veto of a Senate bill, consideration of the veto message. 97-2, Mar. 24, 1982, p 5394. *Note:* First instance where the House, by unanimous consent, postponed possible consideration of a veto message in advance of its receipt. This was done by the leadership to give scheduling notice to Members and could not have been done by motion.

§ 16.10 By unanimous consent, further consideration of a veto message from the President on a House bill was postponed for almost eight months to a day certain. 99-1, Dec. 17, 1985, p .....

*Note:* The purpose of the postponement of the message for this long a period (into the next session) was to preclude surprise motions to discharge if the message were referred, since referral or laying on the table a veto message under the precedents permits privileged motions at any time to either discharge or take from the table, whereas postponement to a day certain effectively prevents privileged motions until that day.

## D. CONGRESSIONAL DISAPPROVAL (OR "VETO") POWER

### § 19. In General; Procedure

§ 19.1 *Delete and Insert:* On June 23, 1983, the U.S. Supreme Court declared in a historic decision, *Immigration and Naturalization Service v Chadha*, that the legislative veto is unconstitutional. The Court said the device violated the doctrine of separation of powers, the principle of bicameralism, and the clause



of the Constitution requiring that legislation passed by both Chambers must be presented to the President for his signature or veto. The decision expressly nullified vetoes by a single House, and implicitly prohibited two-House vetoes contained in legislation passed by Congress that allows the President to take action unless both Houses object to it. See 103 S. Ct. 2764; 77 L. Ed2d 317. In an earlier decision, the U.S. Court of Appeals had specifically held the one-house legislative veto provision in the Natural Gas Policy Act of 1978 (15 USC § 3341(b)) to be unconstitutional. In its decision the circuit court (for the District of Columbia) said that the primary basis for its holding was that the one-house veto violates constitutional Article I section 7, both by preventing the President from exercising his veto power and by permitting legislative action by only one House of Congress. The circuit court also found the one-house veto to contravene the separation of powers principle implicit in Articles I, II, and III because it authorizes the legislature to share powers properly exercised by the other two branches of government. The court declared that Article I section 7 sets forth the fundamental prerequisites to the enactment of federal laws—bicameral passage of legislation and presentation for approval or disapproval by the President, and held that congressional disapproval of final agency rules must comply with these requirements. The court added that Congress may choose to use a resolution of disapproval as a means of expediting action, but only if it acts by both Houses and presents the resolution to the President. *Consumer Energy Council of America, et al. v FERC*, 673 F2d 425 (D.C. Cir. 1982), Affd., 103 S. Ct. 3556. In the light of these decisions, Congress has amended several statutes to convert procedures involving simple or concurrent resolutions of approval or disapproval to procedures requiring joint resolutions which will be presented to the President for his signature or returned for a possible veto override, con-

sistent with the "presentment" clause of Article I section 7. *Manual* § 1013.

§ 19.11 Procedure for consideration in Committee of the Whole of a privileged joint resolution approving a waiver of a provision of law pursuant to the Alaska Natural Gas Transportation Act, see 97-1, Dec. 8, 1981, pp 29972, 29973.

§ 19.17 Pursuant to Pub. L. No. 93-198, section 604(d), a motion to discharge the Committee on the District of Columbia from further consideration of a resolution disapproving an act of the D.C. City Council amending the District of Columbia Criminal Code is privileged after 20 calendar days from introduction of the unreported resolution. The motion is debatable for one hour, equally divided between those favoring and those opposing the resolution. If the House adopts the motion to discharge, a motion to proceed to the immediate consideration of the resolution is privileged at any time thereafter [section 604(g)]. The resolution is debatable for not to exceed 10 hours in the House, equally divided between proponents and opponents, but is subject to the (nondebatable but amendable) motion to limit debate further. 97-1, Oct. 1, 1981, pp 22752 et seq.

§ 19.18 Where a law enacted as a rule of both Houses provides special procedures during consideration of a joint resolution approving a Presidential determination, including a division of one hour of debate equally divided between proponents and opponents, and the House then adopts a special order providing for consideration of such a joint resolution in the House, the Speaker will nevertheless interpret the special statutory provisions to apply if consistent with the special order. 97-1, Dec. 10, 1981, p 30486.

§ 19.19 Pursuant to 22 USC § 2776, a motion that the House resolve into the Committee of the Whole for consideration of a concurrent resolution disapproving an export sale of

major defense equipment proposed by the President is highly privileged after the resolution has been reported subject to the three-day availability rule [Rule XI clause 2(l)(6)]. 97-1, Oct. 14, 1981, pp 23796, 23871, 23872; 99-2, May 7, 1986, p ..... (H.J. Res. 589, prohibiting sales of missiles to Saudi Arabia).

**§ 19.20** Several resolutions reported from the Committee on Appropriations, disapproving Presidential deferrals of budget authority and privileged for consideration in Committee of the Whole under the Impoundment Control Act, were considered in the House (under the hour rule) by unanimous consent. 97-2, July 29, 1982, p 18642.

**§ 19.21** By unanimous consent in the Senate, four resolutions separately disapproving Presidential pay increase recommendations for Members of Congress, officials in the legislative branch, officials in the judicial branch,

and officials in the executive branch, were placed on the calendar and made in order for consideration on Thursday, March 12, or any day thereafter (where the Federal Salary Act Amendments of 1977, Pub. L. No. 95-19, required each House of Congress to conduct a separate vote on each of the recommendations of the President with respect to those four categories of offices within 60 calendar days of the President's submission, the 60th day being March 16). 97-1, Mar. 10, 1981, pp 3894, 3995. During the consideration of these resolutions, which the Senate subsequently adopted, the Presiding Officer held that the yeas and nays were automatically ordered on resolutions disapproving the Presidential recommendations for pay increases under the statute (2 USC § 358), where the act required that each House of Congress conduct a separate recorded vote on each recommendation. 97-1, Mar. 12, 1981, pp 4238, 4240.

## Chapter 25

# Appropriations

### A. INTRODUCTORY

#### § 2. Continuing Appropriations

**§ 2.5** By unanimous consent, the House considered a joint resolution making continuing appropriations for seven executive departments for the balance of the fiscal year. 97-2, Mar. 23, 1982, p 5012. This procedure was also used to consider an unreported joint resolution making continuing appropriations for three days. 98-2, Oct. 1, 1984, p .....

#### § 3. Appropriations in Legislative Bills

**§ 3.2** While under clause 5(a), Rule XXI, a point of order against a provision containing an appropriation in a legislative bill is in order "at any time" during consideration of the bill under the five-minute rule, where a bill is being considered under a "modified closed" rule and is considered as having been read and open to three specified amendments, an appropriate time to raise that point of order is at the expiration of general debate and prior to the offering of the amendments. 99-1, Oct. 24, 1985, p 28812.

## B. AUTHORIZATION OF APPROPRIATION

### § 5. In General

§ 5.3 A paragraph in a general appropriation bill containing funds for expenses of the Civil Rights Commission was conceded to be unauthorized by law where the authorization bill for the ensuing fiscal year had not been enacted. 98-1, Sept. 19, 1983, p ..... Likewise, a paragraph of a general appropriation bill appropriating funds for the Federal Trade Commission for fiscal year 1985 was conceded to be unauthorized and was ruled out on a point of order. The same action was taken with respect to a paragraph in a general appropriation bill appropriating funds for the Legal Services Corporation for fiscal year 1985. 98-2, May 31, 1984, p ..... And in one instance, the Chair sustained a point of order against amendments considered en bloc to a general appropriation bill, where one of the amendments increased the amount of an appropriation not yet authorized by law (for the Customs Service) in a paragraph of the bill not yet read. 98-2, June 21, 1984, p ..... In the 99th Congress, a paragraph in a general appropriation bill containing funds for Corps of Engineers construction projects both "authorized by laws" and "subject, where appropriate, to enactment of authorizing legislation" was held to constitute an appropriation in part for some unauthorized projects and was ruled out in violation of clause 2, Rule XXI. 99-1, June 6, 1985, p 14617.

§ 5.7 Reversing his own ruling that a paragraph of a general appropriation bill was authorized by a general statute creating an office and delegating to it functions and responsibilities, the Chair ruled that an appropriation for the Bureau of the Mint was not authorized by law, where the organic statute creating the Mint and implicitly authorizing the appropriation of funds had been substantially amended and recodified with the stated

legislative purpose of requiring annual authorizations for the Bureau of the Mint. 98-1, June 8, 1983, p .....

§ 5.8 The House rule which bars appropriations not previously authorized by law provides for an exception for appropriations for public works and objects which are already in progress. Rule XXI clause 2(a). *Manual* § 834. However, where existing law (40 USC § 606) specifically prohibits the making of an appropriation to construct or alter any public building involving more than \$500,000 unless approved by resolutions adopted by House and Senate Committees on Public Works, an appropriation for public building construction or renovation not previously authorized by both committees is in violation of Rule XXI clause 2(a), notwithstanding the "work in progress" exception stated in that rule, since the law specifically precludes the appropriation from being made and the "work in progress" exception is only applicable where there is no authorization in law. 98-1, June 8, 1983, p .....

### § 6. Evidence; Burden of Proof

§ 6.2 The Committee on Appropriations has the burden of proving the authorization for an appropriation included in a general appropriation bill, but the Chair may overrule a point of order upon citation to an organic statute creating an agency, absent any showing that such law has been amended or repealed to require specific annual authorizations. 98-1, June 8, 1983, p .....

§ 6.5 An amendment offered to a supplemental appropriation bill appropriating additional amounts for a variety of international programs including development and military assistance was ruled out of order under Rule XXI clauses 2 and 6, where there was no showing of any laws authorizing the appropriations contained in the amendment. 98-2, Aug. 1, 1984, p .....

## § 7. What Constitutes Authorization

§ 7.11 Pursuant to Rule XXI clause 2(a), there must be an authorization in law *prior to* consideration of a paragraph in a general appropriation bill containing funds for that purpose, and language making the availability of funds contingent upon the enactment of authorizing legislation indicates that the appropriation is then unauthorized. In this instance, amendments to a general appropriation bill providing additional appropriations for a program of law enforcement assistance grants to states, contingent upon enactment of a designated House-passed bill or similar Senate reported bill authorizing that program, were conceded to be unauthorized by law in violation of Rule XXI clause 2(a). 98-1, Sept. 19, 1983, p .....

§ 7.24 Where the authorization for the economic development assistance programs of the Economic Development Administration was contained in a bill passed by the House but not enacted into law, a paragraph in a general appropriation bill containing funds for those programs authorized for prior fiscal years was conceded to be unauthorized by law in violation of Rule XXI clause 2(a). Similarly, where the authorization for the special foreign currency program for the Department of Commerce was contained in a bill passed by the Senate but not enacted into law, a paragraph in a general appropriation bill containing funds for that program was conceded to be unauthorized in violation of Rule XXI clause 2(a). 98-1, Sept. 19, 1983, p .....

## § 8. Appropriations for Unauthorized Purposes

§ 8.26 An amendment to the energy and water general appropriation bill allocating a certain amount of energy supply, research and development activities for a designated

project was conceded to be unauthorized and was ruled out of order in violation of Rule XXI clause 2(a). 98-1, June 7, 1983, p .....

§ 8.27 An appropriation for the Bureau of the Mint, for salaries and expenses, was conceded to be unauthorized and was stricken from a general appropriation bill on a point of order. 98-2, June 21, 1984, p .....

In the 99th Congress, a paragraph in a general appropriation bill containing funds for salaries and expenses for U.S. marshals and attorneys was held to be unauthorized by law in violation of clause 2, Rule XXI. And a portion of a paragraph in that bill containing funds for salaries and expenses of the Federal Bureau of Investigation was conceded to be unauthorized by law and was likewise ruled out in violation of clause 2. 99-1, June 6, 1985, p 14610.

§ 8.28 In June 1984, an appropriation for the U.S. Customs Service air interdiction program was conceded to be unauthorized and was stricken from a general appropriation bill on a point of order. 98-2, June 21, 1984, p .....

Subsequently, an amendment to the Treasury Department general appropriation bill inserting unauthorized funds for the Customs Service, authorizing the Commissioner of Customs to waive limitations contained in the bill after making new determinations not required by law, was conceded to contain legislation and unauthorized appropriations and was ruled out on a point of order. 98-2, June 27, 1984, p .....

And in August, an amendment offered to a supplemental appropriation bill appropriating \$450,000 for salaries and expenses of additional inspectors in the Customs Service was conceded not to be authorized by law and ruled out of order under Rule XXI clause 2. 98-2, Aug. 1, 1984, p .....

§ 8.29 A proviso in a paragraph of a general appropriation bill earmarking a portion of the sum appropriated for construction of a facility not authorized by law, to be available until



expended, was held to be unauthorized and to be legislation in violation of clause 2, Rule XXI. 99-1, July 17, 1985, p 19432.

### C. LIMITATIONS ON USE OF FUNDS

#### § 9. In General; Limitations as to Amount of Funds

§ 9.4 A subsection of a general appropriation bill denying the use of funds in the bill *or in any other act*, for publicity or propaganda purposes relative to congressional legislation, was conceded to be legislation and was ruled out on a point of order, since the limitation was not confined to funds in the bill. 98-1, Oct. 27, 1983, p .....

§ 9.15 A limitation on the use of funds in a general appropriation bill may be subject to a point of order under Rule XXI clause 5(b), prohibiting the reporting of a tax or tariff measure from a committee not having that jurisdiction, if the limitation has the effect of requiring the collection of revenues not otherwise provided for by law. 98-1, Oct. 27, 1983, p .....

And it has recently been held that a limitation which would prohibit the use of funds in the bill by the IRS to implement or enforce any regulation imposing a tax on certain individuals under a specified section of the Internal Revenue Code was subject to a point of order under clause 5(b), even though the provision would have obviated a tax rather than imposing one. The Chair pointed out that the duty required of the collecting agency would be substantial, since the IRS would be required to adjust the tax liability of taxpayers who assume they owe the tax. 99-1, July 26, 1985, p 20806.

#### § 10. Limitations Affecting Executive Duties or Discretion

§ 10.16 While an agency may have authority to promulgate new regulations which would change existing regulations, it is in order in a general appropriation bill to deny the use of funds therein for agency proceedings relating to changes in regulations. Thus, language in a general appropriation bill prohibiting the use of funds therein to eliminate an existing legal requirement for sureties on customs bonds was held in order as a valid limitation merely denying funds to change existing laws and regulations. 98-2, June 27, 1984, p .....

§ 10.18 While a limitation on a general appropriation bill may not involve changes of existing law or affirmatively restrict executive discretion, it may by a simple denial of the use of funds change administrative policy and be in order; thus a point of order against a provision prohibiting the use of funds for any reduction in Customs Service regions or for any consolidation of Customs Service offices was overruled. 98-2, June 27, 1984, p .....

§ 10.25 Language in a general appropriation bill denying the use of funds therein for any activity which would prevent a provision of existing law from being enforced is in order as a negative limitation on the use of funds which does not affirmatively change discretionary authority. 98-2, June 27, 1984, p .....

§ 10.26 While some rulings may suggest that it is permissible to make the payment of funds contingent upon the performance of certain obligations by private citizens or other persons not in the federal government's employ (see, e.g., Ch 25 §§ 10.2, 10.20, 13.3, 13.4, 12.6, 15.1), the more recent decisions indicate that it is not in order to make the availability of funds in a general appropriation bill contingent upon a substantive determination by a state or local government official or agency which is not otherwise required by existing

law (Ch 25 § 11.2; 81-1, Mar. 30, 1949, p 3531; 99-1, July 25, 1985, p 20569).

§ 10.27 Language in a general appropriation bill in the form of a conditional limitation requiring determinations by federal officials will be held to change existing law in violation of clause 2, Rule XXI, unless the Committee on Appropriations can show that the new duties are merely incidental to functions already required by law and do not involve substantive new determinations. 99-1, July 26, 1985, p 20808. *Note:* This precedent is relevant to the question of the "incidental" or "ministerial" nature of the duties being imposed, and indicates that the Committee on Appropriations must be prepared to show that the responsibilities being imposed are already required by law. In this instance, a proviso in a general appropriation bill prohibiting the use of funds therein by the postal service to support in-county second class rates of postage for any issue of a publication unless distribution of that issue is within the county of publication above a certain percentage was held to require new determinations of in-county distributions on an issue-by-issue basis not shown to be required by existing law.

## § 11. Conditional Limitations; Time Limitations

§ 11.1 A provision in an appropriation bill making the availability of certain funds contingent upon subsequent congressional action on legislative proposals was conceded to constitute legislation and was ruled out on a point of order. 97-1, Nov. 18, 1981, p 28064.

§ 11.2 It is not in order on a general appropriation bill to condition the availability of funds or contract authority upon an interpretation of local law where that determination is not required by existing law. In one instance, an amendment to a general appropriation bill precluding the exercise of contract authority in jurisdictions which have enacted rent control laws was held to require new de-

terminations as to the status of local law and was ruled out as legislation in violation of Rule XXI clause 2. 97-1, July 17, 1981, pp 16326, 16327.

## § 12. Limitations as to Recipients of Funds

§ 12.6 It has been held in order as a limitation on a general appropriation bill to deny funds for the rehiring of those employees engaged in a strike, where federal officials administering those funds would know which of the employees in question were "on strike." 97-1, Sept. 10, 1981, pp 20109, 20110.

## § 13. Limitations on Use for Particular Purposes

§ 13.21 A paragraph of a general appropriation bill denying use of funds therein for antitrust actions against units of local government, but providing that the limitation did not apply to private antitrust actions, where the appropriation for the FTC (which had brought such actions) had been stricken on a point of order, was held in order as a proper limitation not directly changing existing law, since the provision was confined to the funds in the bill and affected federal court jurisdiction only insofar as it was a simple denial of the use of funds in the bill. 98-2, May 31, 1984, p .....

§ 13.22 A Senate amendment to a general appropriation bill prohibiting the use of funds in that or any other act by the Internal Revenue Service to impose or assess any tax due under a designated provision of the Internal Revenue Code is a tax measure within the meaning of Rule XXI clause 5(b), as it has the effect of repealing a tax by rendering it uncollectable through the use of all funds available to the collecting agency. In this instance, a point of order under Rule XXI clause 5(b), prohibiting tax or tariff amendments to bills report-

ed from committees not having that jurisdiction, was conceded and sustained against a motion to recede and concur in a Senate amendment reported from conference in disagreement. 98-2, Sept. 12, 1984, p .....

## § 16. — Foreign Aid; International Considerations

§ 16.9 The ruling of July 28, 1959, cited in the bound volume, was implicitly overturned by the ruling of the Chair on July 17, 1986, to the effect that it is a violation of clause 2, Rule XXI, for a provision in a general appropriation bill to apply standards of conduct to foreign entities where the law requires such conduct only by domestic entities. 99-2, July 17, 1986, p ....., discussed in more detail in Ch 26 § 11, *infra*.

## D. REAPPROPRIATIONS

### § 18. In General

§ 18.1 A paragraph in a general appropriation bill making available unobligated balances of funds appropriated in prior appropriation acts is a reappropriation in violation of Rule XXI clause 6. 97-2, July 29, 1982, p 18625. Similarly, a provision in a general appropriation bill transferring previously appropriated funds to extend their availability and to merge them with current-year funds (not transferring them to a new purpose) was conceded to be a reappropriation in violation of Rule XXI clause 6 and was ruled out on a point of order. 98-1, Oct. 26, 1983, p .....

§ 18.2 Provisions in a general appropriation bill transferring previously appropriated funds to extend their availability and to make them available for a new purpose were conceded to be reappropriations in violation of Rule XXI clause 6 and were ruled out on a point of order. 98-1, Oct. 26, 1983, p .....

§ 18.3 A provision in a general appropriation bill transferring, and merging, funds previously appropriated (for a different purpose) was conceded to be unauthorized and legislation (also a reappropriation) and was ruled out on a point of order. 98-2, May 31, 1984, p .....

## E. CONSIDERATION AND DEBATE

### § 19. In General; Effect of Special Orders

§ 19.5 98-2, Feb. 29, 1984, p ....., In the 99th Congress, a special order was reported from the Committee on Rules, providing that if a point of order was sustained against a certain paragraph in a general appropriation bill containing unauthorized items, an amendment reinserting authorized amounts therein could be offered; the special order also changed the amendment process under clause 2(d), Rule XXI, to permit two specified legislative amendments to the bill, and two perfecting amendments to one amendment, with priority over the motion to rise and report but otherwise precluding limitation and retrenchment amendments following adoption of that motion. 99-1, June 6, 1985, p 14570.

§ 19.12 By unanimous consent, the House waived all points of order against consideration of a supplemental appropriation bill, permitted consideration in the House with one hour of debate equally divided, and ordered the previous question to final passage without intervening motion (precluding the motion to recommit). 97-2, June 22, 1982, p 14605. In a similar instance, the House, by unanimous consent, made in order the immediate consideration in the House of an unreported joint resolution making further continuing appropriations, with the previous question considered as ordered to final passage without intervening motion except one

motion to commit. 97-1, Nov. 23, 1981, p 28885.

**§ 19.13** Special order waiving points of order against consideration of a joint resolution making continuing appropriations not reported for three legislative days and providing for its consideration in the House; not to exceed two hours of debate; no amendments; previous question considered as ordered. 97-1, Nov. 16, 1981, p 27613.

**§ 19.14** The House having rejected a special order reported from the Committee on Rules providing for consideration of a joint resolution making continuing appropriations, reported from the Committee on Appropriations, under a procedure providing for automatic consideration in the House of only one amendment striking all legislative, policy, and authorization matters contained in the reported resolution, the Committee on Rules then reported and the House adopted a special order providing for consideration of the joint resolution in the Committee of the Whole, under a procedure making none of such provisions subject to amendment, but making in order 11 amendments, some to address policy and legislative matters, and to enact unrelated authorizations into law. 98-2, Sept. 25, 1984, p .....

## **§ 20. When Bills May Be Reported or Considered**

**§ 20.2** 97-1, Nov. 12, 1981, p 27192.

## **§ 21. Points of Order**

**§ 21.3** A point of order against a paragraph of a general appropriation bill may be made only after that paragraph has been read by the Clerk, and may not be made against the paragraph prior to its reading pending consideration of an amendment inserting language immediately prior thereto. 99-1, June 6, 1985, p 14605.

**§ 21.6** General appropriation bills are read by paragraphs, and a point of order against a paragraph must be made immediately after it is read and comes too late after the succeeding paragraph has been read by the Clerk. 97-2, July 29, 1982, p 18626. While a general appropriation bill is normally read for amendment by paragraphs, where unanimous consent is granted to read by titles, points of order against any provision in a pending title must be made when that title is read and before amendments are offered thereto. 97-1, July 13, 1981, p 15548; 98-1, Oct. 26, 1983, p ..... Where a title of a general appropriation bill has, by unanimous consent, been opened to points of order and to amendments at any point, the Chair will nevertheless entertain points of order separately against separate paragraphs rather than en bloc. 98-1, Nov. 2, 1983, p .....

**§ 21.7** 97-2, Nov. 30, 1982, p 28060. A point of order against a paragraph of a general appropriation bill which has been passed in the reading for amendment may be made only by unanimous consent. 97-2, Nov. 30, 1982, p 28066.

**§ 21.8** Under the precedents, general appropriation bills are read "scientifically" by paragraph headings and appropriation figures, and Members desiring to make points of order against a paragraph or to offer an amendment thereto must seek recognition before the next paragraph heading and amount is read by the Clerk. Where an initial paragraph in a general appropriation bill appropriates an aggregate amount from a special fund for specific projects which are delineated and separately funded in subsequent paragraphs, the Chair will treat each project as a separate paragraph and a point of order that a particular project is not authorized by law will lie when the Clerk reads that specific amount and not against the prefatory paragraph. 97-2, Nov. 30, 1982, p 28067.



§ 21.13 A point of order against a portion of a general appropriation bill must be confined to the paragraph then pending before the Committee of the Whole. 98-2, June 21, 1984, p .....

§ 21.17 Where a general appropriation bill is by unanimous consent considered as read and open to points of order and then to amendments at any point, points of order against provisions in the bill must be made before amendments are offered, and cannot be reserved pending subsequent action on amendments, since points of order lie against provisions in the bill as reported under Rule XXI clause 2, and separately against amendments in violation of that rule. 97-2, Dec. 1, 1982, p 28175. Where a chapter of a general appropriation bill is considered as read by unanimous consent and open to amendment at any point, and where no amendments are offered and the Clerk begins to read the next chapter, it is too late to make a point of order against a paragraph in the preceding chapter. 99-1, June 11, 1985, p 15182.

§ 21.19 A point of order against a portion of a paragraph of a general appropriation bill, if sustained, is sufficient to result in the striking of the entire paragraph upon the demand of the Member making the point of order, notwithstanding inclusion of an appropriation which might be authorized by law or in order as a "work in progress" exception under clause 2(a), Rule XXI. 99-1, July 31, 1985, p 21895. In this instance, a portion of a paragraph of a general appropriation bill making funds therein for restoration and renovation of Smithsonian Institution buildings "available until expended" and containing legislative language directing the awarding of contracts was conceded to be in violation of clause 2, Rule XXI, and the entire paragraph was stricken on a point of order.

§ 21.28 Instance where the Chairman of the Committee of the Whole permitted a Member to reserve a point of order against a para-

graph of a general appropriation bill just read by the Clerk, where another Member had been recognized to offer a pro forma amendment for debate only but had not begun his remarks, although under the ordinary procedure a Member must raise a point of order against a paragraph under Rule XXI clause 2 immediately after the paragraph is read and prior to recognition for the offering of amendments thereto. 98-1, Sept. 19, 1983, p ..... *Note:* The Chair should not permit the reservation of points of order against paragraphs of general appropriation bills and then permit amendments thereto, since the point of order, if sustained, may vitiate the entire paragraph and should be disposed of first.

§ 21.29 Once points of order have been reserved in the House against provisions in a general appropriation bill pending a unanimous-consent request for filing of the report thereon and referral to the Union Calendar when the House would not be in session, points of order need not be reserved again when the report is filed from the floor as privileged on a later day, as the initial reservation carries over to any subsequent filing on that bill. 98-1, Mar. 1, 1983, p .....

§ 21.30 The Chair does not inquire whether any points of order are to be made against a paragraph of a general appropriation bill which has been read by the Clerk (this is done only where reading of a larger portion of the bill has been dispensed with by unanimous consent). 98-2, May 31, 1984, p .....

## § 22. Amendments; Reading for Amendment

§ 22.2 98-1, Oct. 26, 1983, p .....

§ 22.8 Under the new rule adopted in the 98th Congress, amendments perfecting a general appropriation bill as reported from the Committee on Appropriations are considered during the reading of the bill for amendment

during the five-minute rule; however, amendments which under the precedents are classed as "limitations" are in order only following the completion of such reading, at which time motions that the Committee rise and report the bill with such amendments as have been previously adopted during the reading are given preferential status over such limiting amendments. Rule XXI clauses 2(c) and (d). *Manual* § 834. Pursuant to clause 2(d), Rule XXI, the motion that the Committee of the Whole rise and report a general appropriation bill to the House following completion of the reading of the bill for amendment takes precedence over an amendment proposing a limitation on the use of funds in the bill not specifically contained or authorized in existing law. However, the amendment with the limitation may be considered as pending upon rejection by the Committee of the preferential motion. 99-1, July 30, 1985, pp 21534-36. Thus, an amendment to a paragraph of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation is not in order during the reading of the bill pursuant to clause 2(c), Rule XXI (99-2, July 30, 1986, p .....), but must await rejection (or lack of offering) of a preferential motion at the end of the reading of the bill that the Committee rise and report the bill to the House (99-2, July 23, 1986, p .....).

§ 22.9 Pursuant to Rule XXI clause 2(c), as added in the 98th Congress, a general appropriation bill is read for amendment (or considered as read by unanimous consent) in its entirety before amendments proposing limitations not specifically contained or authorized in existing law or legislative retrenchments of amounts of money in the bill are in order; and a motion that the Committee of the Whole rise and report the bill to the House with such other amendments already adopted then takes precedence of an amendment proposing a limitation or retrenchment. 98-1, June 2, 1983, p .....

§ 22.10 When a general appropriation bill has been read or is, by unanimous consent, considered as read and open to amendment at any point, the Chair first entertains points of order against provisions in the bill, then entertains nonlimitation amendments in order under Rule XXI clause 2(c), and then entertains amendments proposing limitations not specifically contained or authorized in existing law (subject to the preferential motion that the Committee rise and report the bill to the House with such amendments as may have been adopted). 98-1, Sept. 22, 1983, p .....; 98-1, Oct. 27, 1983, p ..... In this situation, the Chair first inquires whether any Member seeks to offer a nonlimitation or non-retrenchment type amendment not restricted by Rule XXI clause 2(c), prior to recognizing Members to offer limitation or retrenchment amendments, since the motion to rise and report pursuant to Rule XXI clause 2(d) only supersedes the latter category of amendment and does not take precedence of other amendments otherwise in order. 98-1, June 2, 1983, p .....

§ 22.11 When a general appropriation bill has been read for amendment in its entirety and amendments not proposing limitations have been disposed of, the proper procedure for precluding limitation amendments and moving the bill to final passage in the House is to offer the preferential motion that the Committee rise and report the bill to the House with such amendments as may have been agreed to, and not to offer the simple motion to rise (which although preferential over an amendment or over the motion to rise and report with a recommendation, merely leaves the bill as unfinished business in the Committee of the Whole). 98-1, Oct. 27, 1983, p .....

§ 22.12 An amendment to a general appropriation bill precluding the availability of funds therein for the performance of abortions is a limitation within the terms of clause

2(d), Rule XXI, which may only be offered at the conclusion of the reading of the bill for amendment and following rejection of a preferential motion to rise and report. 99-1, July 30, 1985, pp 21534-36.

### § 23. Waiving Points of Order

§ 23.1 The House may adopt a resolution waiving points of order against designated unauthorized appropriations and legislation in a general appropriation bill. 98-2, June 27, 1984, p .....

§ 23.14 98-2, July 25, 1984, p ..... (waiving points of order against unauthorized appropriations).

§ 23.16 Resolution reported from the Committee on Rules, waiving points of order against designated provisions in a general appropriation bill containing unauthorized items, legislation or reappropriations, permitting points of order against portions of certain paragraphs but not against entire paragraphs. 97-1, July 10, 1981, p 15331; 97-1, July 30, 1981, p 18803.

§ 23.17 Resolution reported from the Committee on Rules, waiving points of order against specified legislative provisions, unauthorized items, and reappropriations in a general appropriation bill but not against a legislative proviso in a designated paragraph, waiving points of order against the remainder of that paragraph if proviso ruled out; and also waiving points of order against initial consideration of any general appropriation bill for ensuing fiscal year prior to final adoption of the concurrent resolution on the

budget for that fiscal year. 98-2, May 22, 1984, p .....

§ 23.18 By unanimous consent, the House waived points of order against a designated amendment printed in the Record containing additional legislation to a paragraph of a general appropriation bill containing legislation, where a waiver of points of order against the paragraph had been recommended in a special order reported from the Committee on Rules but not yet considered in the House. 98-2, June 15, 1984, p ..... *Note:* This instance represents the first discernable example of a unanimous-consent request on the House floor, in advance of House action on a Rules Committee report, to grant an additional waiver against an amendment not contemplated by the special order.

§ 23.19 Special orders were reported from the Committee on Rules, waiving points of order against consideration of a general appropriation bill where a committee report had not been printed for three days. 99-2, July 17, 1986, p .....; 99-2, Aug. 1, 1986, p ..... *Note:* With respect to general appropriation bills, both of the three-day rules apply and may need to be waived, as the specific rule, clause 7, Rule XXI, does not supersede the more general rule in clause 2(1)(6), Rule XI which covers all reports.

§ 23.20 A special order was reported from the Committee on Rules waiving points of order against consideration of a general supplemental appropriation bill containing new budget authority in excess of allocations to subcommittees and for failure of the committee report to contain a comparison of spending in the bill with subcommittee allocations. 99-2, Apr. 22, 1986, p .....

## Chapter 26

## Legislation in Appropriation Bills

## A. INTRODUCTORY

**§ 1. In General; The Rule Against Inclusion of Legislation**

**§ 1.1** Under clause 3 of Rule XXI, provisions in a general appropriation bill described in the accompanying report as directly or indirectly changing the application of existing law are presumably legislation in violation of clause 2(c) of Rule XXI, absent rebuttal by the committee. 98-2, May 3, 1984, p .....

**§ 1.8** Language in a general appropriation bill providing that police powers conferred therein on a class of federal guards shall not be restricted to certain federal property as otherwise required by law was conceded to be legislation and was ruled out in violation of clause 2 of Rule XXI. 97-1, July 30, 1981, p 18776.

**§ 1.12** A provision in an appropriation bill providing for the administration of certain funds notwithstanding a statute to the contrary was conceded to constitute legislation and was ruled out on a point of order. 97-1, Nov. 18, 1981, p 28064. An amendment to a general appropriation bill making inapplicable those provisions of law requiring payment of prevailing wage rates under federal construction contracts, was likewise conceded to be legislation waiving existing law and not in the form of a limitation. 97-1, Sept. 16, 1981, p 20737. Similarly, a provision in a general appropriation bill transferring the administration of certain lands to the Veterans' Administration notwithstanding any law, was conceded to constitute legislation on an appropriation bill and was ruled out of order under clause 2 of Rule XXI. 98-2, Aug. 1, 1984, p ..... Like-

wise, a paragraph in a general appropriation bill waiving the applicability of existing (anti-trust) law to a memorandum of understanding approved by the Department of Energy was ruled out as legislation in violation of clause 2, Rule XXI. 99-1, June 11, 1985, p 15159.

**§ 1.14** The fact that legislative language may have been included in appropriation acts in prior years and made applicable to funds in those laws does not permit the inclusion in a general appropriation bill of similar language requiring officials to make determinations not otherwise required by law for the fiscal year in question. 98-1, Sept. 22, 1983, p .....

**§ 1.19** A paragraph in a general appropriation bill providing congressional disapproval of a deferral of budget authority proposed by the President pursuant to the Impoundment Control Act is legislation in violation of clause 2 of Rule XXI. 97-2, July 29, 1982, p 8625. *Note:* While the Impoundment Control Act provides a procedure for privileged consideration of resolutions of disapproval of Presidential deferrals of budget authority, and while the Committee on Appropriations was given original jurisdiction over deferrals as an amendment to Rule X, such provisions when included in general appropriation bills are nevertheless legislation changing the procedure for congressional disapproval.

**§ 1.20** A paragraph in a general appropriation bill directing that not less than a specified sum be available for a certain purpose was ruled out as legislation in violation of clause 2 of Rule XXI constituting a direction to spend a minimum amount and not a negative limitation. 97-2, July 29, 1982, p 18623.



§ 1.21 A paragraph in a general appropriation bill containing a congressional finding that construction and operation of a certain power line is in the public interest was ruled out as legislation in violation of clause 2, Rule XXI. 99-1, June 11, 1985, p 15159.

§ 1.22 An amendment adding new sections to a general appropriation bill for energy and water development that, *inter alia*, required a water conservancy district to pay interest on certain features of a water project in a manner contrary to current obligations, was conceded to change existing law and was ruled out of order as legislation in violation of clause 2, Rule XXI. 99-2, July 23, 1986, p .....

## § 2. Effect of Special Rule Authorizing Inclusion of Legislation; Waivers

§ 2.1 A waiver of clause 2, Rule XXI against language in a general appropriation bill constituting a change in existing law does not permit the offering of an amendment to the bill containing additional legislation. 99-1, July 25, 1985, p 20593.

§ 2.2 To a legislative provision permitted to remain in a general appropriation bill conferring assistance on a certain class of recipients, an amendment adding an additional class of recipients to those covered by that provision is legislation in violation of clause 2(c) of Rule XXI and is not merely perfecting in nature. 98-1, June 22, 1983, p .....

§ 2.3 A legislative provision permitted to remain in a general appropriation bill may be perfected by germane amendment as long as the amendment does not add further legislation. 98-2, June 27, 1984, p .....

Thus, an amendment to a general appropriation bill which contains legislation but which is protected by a waiver of points of order by a resolution from the Committee on Rules may be amended by a substitute that does not pro-

pose additional legislation. 99-1, Sept. 11, 1985, pp 23398-401.

§ 2.4 Inclusion of an unauthorized appropriation in a general appropriation bill permitted to remain by a waiver of points of order does not permit an earmarking of those funds by directing their use for a purpose not required by law. 99-1, July 26, 1985, p 20814. In one instance, to a paragraph in a general appropriation bill containing an unauthorized lump sum for operations of an agency, permitted to remain by a waiver of points of order, an amendment earmarking portions of that amount by both "authorizing" a ceiling (not more than) and a floor (not less than) for certain programs within that agency was conceded to be legislation in violation of clause 2, Rule XXI. 99-2, July 17, 1986, p .....

§ 2.9 To a paragraph of a general appropriation bill constituting legislation (requiring new determinations respecting the use of certain funds in the bill) but permitted to remain by failure to raise a point of order, an amendment broadening the application of that legislative provision to other funds in the bill was not permitted to be offered under clause 2(c), Rule XXI, prior to a preferential motion under that clause to rise and report. 99-1, July 30, 1985, pp 21532-34.

§ 2.10 While unauthorized funds, legislative provisions and reappropriations permitted to remain in a general appropriation bill by a special order waiving points of order may be perfected by amendment which does not add legislation, it is not in order to add legislation imposing new duties on federal officials not required by existing law. 99-2, July 23, 1986, p .....

## § 3. Transfer of Funds; Funds in Other or Prior Acts

§ 3.3 An amendment to a general appropriation bill in the form of a limitation which is

applicable also to funds appropriated in other acts is legislation in violation of clause 2 of Rule XXI. 97-1, May 13, 1981, pp 9662, 9663.

§ 3.4 A proviso in a paragraph of a general appropriation bill prohibiting the availability of funds therein *and in other appropriation acts* for a certain purpose was conceded to be legislation and not a limitation confined to funds in the bill, and was ruled out in violation of clause 2, Rule XXI. 99-1, July 31, 1985, p 21894. Likewise, a paragraph in a general appropriation bill prohibiting transfers of funds for a certain department in *any* appropriation act unless provided in advance in appropriation acts was conceded to be legislation not confined to funds in the bill and was ruled out in violation of clause 2, Rule XXI. 99-2, May 8, 1986, p .....

§ 3.18 A provision in a general appropriation bill transferring, and merging, funds previously appropriated (for a different purpose) was conceded to be unauthorized and legislation (also a reappropriation) and was ruled out on a point of order. 98-2, May 31, 1984, p .....

§ 3.19 A paragraph in a general appropriation bill requiring funds available to an agency in any future fiscal year for a certain purpose to be subject to limitations specified in advance in appropriation acts was ruled out as legislation in violation of clause 2, Rule XXI (not a limitation confined to funds in that bill). 99-2, May 8, 1986, p .....

§ 3.20 A paragraph in a general appropriation bill changing the applicability of an existing law governing the emergency transfer of funds within a department to require approval by congressional committees of transfers of any funds under reprogramming procedures contained in a House report of a prior Congress was ruled out as legislation in violation of clause 2, Rule XXI. 99-2, May 8, 1986, p .....

## § 4. Funds for Excessive or Indefinite Amounts

§ 4.4 A paragraph in a general appropriation bill containing funds in excess of amounts permitted to be committed by a federal agency for mortgage purchases during that fiscal year was conceded to be legislation in violation of clause 2 of Rule XXI. 97-2, July 29, 1982, p 18636.

## § 6. Distribution of Funds; Allocation by Formula

§ 6.1 It is in violation of clause 2(c) of Rule XXI to include language in a general appropriation bill directing that funds therein be obligated in a manner contrary to existing law. 98-1, Oct. 5, 1983, p .....

In this instance, a proviso in a general appropriation bill specifying that an appropriation for veterans' job training be obligated on the basis of those veterans unemployed the longest time was conceded to be legislation where existing law did not require that allocation of funds and was ruled out in violation of clause 2(c) of Rule XXI.

§ 6.2 It is not in order on a general appropriation bill to direct that funds therein be distributed in a manner contrary to an allocation formula in existing law. 97-2, July 29, 1982, pp 18637, 18638.

## § 7. Funds To Be "Available"

§ 7.1 An amendment to a general appropriation bill permitting funds therein to remain available until expended was held to be legislation where the law authorizing that appropriation did not explicitly permit funds to remain available beyond the fiscal year for which appropriated. 97-1, July 21, 1981, p 16687. And a provision in a general appropriation bill extending the availability of funds contained in a prior-year appropriation act until expended was ruled out as legislation

in violation of clause 2, Rule XXI where no law authorizing availability beyond the fiscal year was cited. 99-1, June 6, 1985, p 14610. However, the availability of funds in a general appropriation bill may extend beyond the fiscal year covered by the bill where existing law authorizes the inclusion of language extending availability of funds for the purpose stated in that law. 99-1, June 11, 1985, p 15174.

§ 7.9 A paragraph in a general appropriation bill authorizing an agency to expend funds for two fiscal years to relocate a certain facility was ruled out as legislation in violation of clause 2, Rule XXI. 99-1, June 6, 1985, p 14609.

§ 7.13 Funds in a general appropriation bill for expansion and improvement of the Bureau of the Mint facilities were conceded to be unauthorized by law and in violation of clause 2(a) of Rule XXI, where made available until expended. 98-1, June 8, 1983, p ..... *Note:* While funds in a general appropriation bill for expansion and renovation of existing federal facilities might be in order, though not specifically authorized, as a work-in-progress exception under clause 2(a) of Rule XXI, the availability of those funds until expended is a change in existing law and not covered by the work-in-progress exception.

§ 7.14 Language in a paragraph of a general appropriation bill requiring funds therein to be "immediately available upon enactment" was conceded to be legislation requiring expenditure prior to the fiscal year for which appropriated and was ruled out in violation of clause 2(b), Rule XXI. 99-2, July 29, 1986, p .....

## § 8. Funds for Unauthorized or Future Projects; Conditional Funding

§ 8.10 It is legislation on a general appropriation bill in violation of clause 2, Rule XXI to

require the submission of reports to a committee of Congress where existing law does not require that submission. 99-2, Aug. 1, 1986, p ..... Thus, an amendment to a general appropriation bill precluding the availability of funds therein unless agencies submit reports to the Committees on Appropriations—reports not required to be made by existing law—constitutes legislation in violation of that rule. 98-1, Nov. 2, 1983, p .....; 99-1, July 25, 1985, pp 20806, 20807. And an amendment to a general appropriation bill restricting the authority conferred upon an agency in the succeeding paragraph of the bill to commit funds or dispose of property pending reports to committees of Congress was conceded to be legislation in violation of the rule. 99-1, June 6, 1985, p 14609.

§ 8.17 *Delete and Insert:* It is not in order in a general appropriation bill to restrict the discretionary authority of an executive official by a conditional prohibition on the use of funds which changes existing law. 99-1, July 31, 1985, p 21909. For example, where existing law confers discretionary authority on an executive agency to require submission of health and safety information by applicants for licenses, an amendment to a general appropriation bill restricting that discretion by requiring the submission of such information as a condition of receiving funds constitutes legislation. 96-1, June 18, 1979, pp 15286, 15287.

§ 8.19 An amendment to a general appropriation bill making the availability of funds therein contingent upon subsequent congressional enactment of legislation containing specified findings was ruled out as legislation requiring new legislative and executive branch policy determinations not required by existing law. In this instance, an amendment to the defense appropriations bill denying the use of funds therein for continued deployment of land-based U.S. Armed Forces in Lebanon after March 1, 1984, unless the Con-

gress adopts a joint resolution containing certain findings, was ruled out as legislation in violation of clause 2 of Rule XXI, requiring new duties to be imposed on both the Congress and on the President (to make certain findings and to sign the joint resolution) not presently required by law. 98-1, Nov. 2, 1983, p .....

**§ 8.20** A proviso in a general appropriation bill reducing amounts determined to be necessary, after consultation with the GSA Administrator, for the costs of operating a federal building under a delegation of authority was conceded to be legislation in violation of clause 2, Rule XXI. 99-1, July 17, 1985, p 19438.

**§ 8.21** For an amendment to constitute a proper limitation of funds on a general appropriation bill it must be confined to the funds in the bill and may not include a condition requiring submission of an agreement settling a certain lawsuit to Congress and review by Congress, where that contingency is not already required by existing law. 99-2, July 31, 1986, p .....

## **§ 9. Funds for Employment, Salaries, or Related Benefits**

**§ 9.5** A paragraph of a general appropriation bill containing funds for compensation of the President and providing that none of those funds for official expenses shall be considered taxable was conceded to be legislation in violation of Rule XXI. 97-1, July 30, 1981, p 18761.

**§ 9.14** A paragraph in a general appropriation bill making the provisions of existing law inapplicable to the compensation of certain employees changes existing law in violation of clause 2 of Rule XXI. A paragraph in a general appropriation bill authorizing an executive official to establish salary levels of certain other officials likewise constitutes a

change in existing law. 97-2, Sept. 30, 1982, pp 26290, 26291.

**§ 9.15** A paragraph in a general appropriation bill prohibiting the use of funds therein to pay certain civilian employees of the Defense Department a cost-of-living allowance in excess of that based upon spendable income was conceded to be legislation requiring new determinations of spendable income not required to be made by existing law. 97-2, Dec. 8, 1982, p 29449.

**§ 9.16** A provision in a general appropriation bill appropriating necessary expenses for a designated number of officers on the active list of an agency was conceded to be unauthorized by law, and legislation establishing those positions and was ruled out in violation of clause 2 of Rule XXI. 98-2, May 31, 1984, p .....

## **§ 10. Reduction or Retrenchment of Appropriation; The Holman Rule**

**§ 10.1** The 98th Congress narrowed the "Holman Rule" exception to apply only to retrenchments reducing amounts of money covered by the bill, and not retrenchments resulting from reduction of the number and salary of officers of the United States or of the compensation of any person paid out of the U.S. Treasury. The new rule also eliminated separate authority conferred upon legislative committees to report amendments retrenching expenditures, and permitted legislative committees to recommend such retrenchments by reduction of amounts covered by the bill to the Appropriations Committee for discretionary inclusion in the reported bill. *Manual* § 844b.

**§ 10.13** An amendment to a general appropriation bill providing for a percentage reduction of amounts appropriated therein (except for existing "entitlement" programs) was held



not to be a legislative retrenchment since it constituted a direct reduction in funds and did not require an executive official to determine the reductions. 98-2, June 6, 1984, p ..... On the other hand, an amendment adding a new section to a general appropriation bill which merely authorized the President to reduce each appropriation in the bill by not more than 10 percent was conceded to be legislation (conferring new authority on the President) and was ruled out on a point of order. 98-2, May 31, 1984, p .....; 98-2, June 6, 1984, p .....

### § 11. Imposing Duties on an Executive Official

§ 11.1 It is not in order in a general appropriation bill to require federal officials, in determining the extent of availability of funds, to make substantial findings not required by existing law. 97-2, Dec. 9, 1982, p ..... Language in the guise of a limitation requiring federal officials to make evaluations of propriety and effectiveness not required to be made by existing law is legislation. 97-1, Oct. 6, 1981, p 23361.

§ 11.2 While the House may, by way of a limitation, restrict the use of funds in an appropriation bill, it may not impose additional new duties on an executive officer not specifically required in existing law. Thus, a provision in an appropriation bill limiting the availability of funds in the bill for grants-in-aid to any airport that fails to provide designated and enforced smoking and nonsmoking areas for passengers in airport terminal areas was held in violation of clause 2, Rule XXI, in that it imposed new duties on executive officials to monitor *and enforce* the establishment of these areas, an additional duty not specifically required in existing law. 99-2, July 30, 1986, p ..... A section in a general appropriation bill restricting funds in the bill for special pay of physicians or dentists whose "primary" duties are administrative was conceded

to be legislation (imposing new determinations of "primary" nature of duties) and was ruled out in violation of clause 2(c) of Rule XXI. 98-1, Nov. 2, 1983, p ..... Likewise, a provision in a general appropriation bill restricting funds therein in carrying out any requirement that small business meet certain prequalifications of "acceptable" product marketability to be eligible to bid on certain defense contracts was conceded to constitute legislation and was ruled out in violation of clause 2(c) of Rule XXI. 98-1, Nov. 2, 1983, p ..... A provision in a general appropriation bill denying use of funds therein for certain agricultural census forms, or for "similar forms for any future agricultural census" was conceded to be legislation and was ruled out on a point of order (requiring new determinations of "similarity"). 98-2, May 31, 1984, p ..... While some rulings may suggest that it is permissible to make the payment of funds contingent upon the performance of certain obligations by private citizens or other persons not in the federal government's employ (see, e.g., Ch 25 §§ 10.2, 10.20, 13.3, 13.4, 12.6, 15.1), the more recent rulings indicate that it is not in order to make the availability of funds in a general appropriation bill contingent upon a substantive determination by a state or local government official or agency which is not otherwise required by existing law (Ch 25 § 11.2; 81-1, Mar. 30, 1949, p 3531; 99-1, July 25, 1985, p 20569.).

§ 11.7 A provision in a general appropriation bill prohibiting the use of funds therein to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, and providing that the several states shall remain free not to fund abortions to the extent they deem appropriate, is legislation requiring federal officials to make determinations and judgments not required by law, notwithstanding the inclusion in prior-year appropriation bills of similar legislation applicable to funds in prior years. 98-

1, Sept. 22, 1983, p ..... Similarly, a section of a general appropriation bill prohibiting the use of funds therein to pay for an abortion, or for employee health insurance plans providing benefits or coverage for abortions, except where the life of the mother would be endangered if the fetus were carried to term, was ruled out as legislation requiring new determinations by executive branch officials not required by law. 98-1, Oct. 27, 1983, p ..... In a 1984 instance, involving a section of a general appropriation bill exempting cases where the *life* of the mother would be endangered if the fetus were carried to term, an amendment to that section exempting instead cases where the *health* of the mother would be endangered if the fetus were carried to term was held not to constitute further legislation, since determinations on the endangerment of life necessarily subsume determinations on the endangerment of health, and the amendment did not therefore require any different or more onerous determinations. 98-2, June 27, 1984, p ..... To a paragraph of the District of Columbia appropriation bill prohibiting the use of "Federal funds" therein for abortions except where the life of the mother is in danger or for victims of rape or incest—legislation permitted to remain by lack of a point of order—an amendment broadening the application of that legislative provision to local D.C. funds appropriated in the bill by striking the word "Federal," and retaining the requirement for new determinations regarding the life of the mother with respect to use of those separate funds, was properly not permitted to be offered under clause 2(c), Rule XXI (since the amendment was additional legislation subject to a point of order under that clause). 99-1, July 30, 1985, pp 21532-34.

§ 11.10 It is in order on a general appropriation bill to deny funds for the payment of salary to a federal employee who is not in compliance with a federal law, for such limitation places no new duties on a federal offi-

cial who is already charged with enforcing the law. In this instance, an amendment to a general appropriation bill prohibiting the use of funds therein to rehire certain federal employees engaged in a strike in violation of federal law was held in order as a limitation not requiring new determinations on the part of federal officials administering those funds. 97-1, Sept. 10, 1981, pp 20109, 20110.

§ 11.16 An amendment limiting the availability of funds in a general appropriation bill contingent upon submission of an agreement (settling a certain lawsuit) by a federal official to Congress and congressional review thereof—a condition not required by existing law—is legislation in violation of clause 2(c), Rule XXI. 99-2, July 31, 1986, p ..... A provision in a general appropriation bill requiring the Customs Service to submit a monthly report to the Committee on Appropriations and the Committee on Ways and Means detailing the number of district positions authorized and the number of positions vacant was conceded to require new determinations not required by law and ruled out as legislation. 99-2, Aug. 1, 1986, p .....

§ 11.29 A section in a general appropriation bill containing a prohibition on the use of funds therein for procurement of foreign products except to the extent a federal official determines an unsatisfactory availability of domestic products was conceded to require new determinations not required by law and to be legislation. 97-1, July 30, 1981, pp 18775, 18776. Similarly, an amendment to a general appropriation bill prohibiting the use of funds therein to procure foreign-made items unless their inspection for quality assurance uses the same standards which would be required for domestic products was ruled out as legislation imposing additional duties absent any showing that existing law already required such inspection of items produced in foreign countries. 97-1, Nov. 18, 1981, pp 28076, 28077. Paragraphs in a general appro-

priation bill denying the use of funds therein for procuring or paying salaries to persons procuring certain foreign-made goods unless the Administrator of GSA determines that a satisfactory and sufficient quality of domestically produced goods cannot be procured, or except in accordance with a former regulation, were conceded to impose new duties on federal officials and were ruled out as legislation. 98-1, June 8, 1983, p ..... A section in a general appropriation bill denying the use of all funds available to the Department of Defense for certain foreign purchases of coal when coal from the United States is available was conceded to require new determinations by executive officials and was ruled out as legislation in violation of clause 2(c) of Rule XXI. 98-1, Nov. 2, 1983, p ..... In 1984, a provision in a general appropriation bill denying use of funds therein for procurement of stainless steel flatware not produced in the United States unless the GSA finds that a "satisfactory" quality and sufficient quantity" of domestic flatware cannot be found, was conceded to require new determinations not required by law and ruled out as legislation. 98-2, June 27, 1984, p ..... For a similar ruling involving foreign and domestic stainless steel flatware, see 99-2, Aug. 1, 1986, p ..... On July 30, 1986, an amendment to a general appropriation bill in the form of a limitation prohibiting the availability of funds therein for the purchase of "nondomestic" goods or services was held in order as a proper limitation and not imposing new duties on executive officials in violation of clause 2, Rule XXI. 99-2, p ..... This decision (and a similar ruling at 7 Cannon § 1697) was subsequently overruled on Sept. 12, 1986, when an amendment to a general appropriation bill in the form of a limitation prohibiting the availability of funds therein for the purchase of "nondomestic" goods or services was ruled out as legislation in violation of clause 2(c), Rule XXI, as imposing new duties on federal officials to determine the origin of the purchases—a requirement not contained in exist-

ing law. The duty imposed upon a federal official to ascertain whether funds are available to purchase "nondomestic" goods and services was shown to be legislation where no existing law could be cited requiring determinations of place of origin of all purchases funded by the bill. 99-2, Sept. 12, 1986, p .....

§ 11.37 It is not in order on a general appropriation bill to condition the availability of funds or contract authority upon an interpretation of local law where that determination is not required by existing law. Thus, an amendment to a general appropriation bill precluding the exercise of contract authority in jurisdictions which have enacted rent control laws was held to require new determinations as to the status of local law and was ruled out as legislation in violation of clause 2 of Rule XXI. 97-1, July 17, 1981, pp 16326, 16327.

§ 11.38 Language in a general appropriation bill in the form of a conditional limitation requiring determinations by federal officials will be held to change existing law in violation of clause 2, Rule XXI unless the Committee on Appropriations can show that the new duties are merely incidental to functions already required by law and do not involve substantive new determinations. In this instance, a proviso in a general appropriation bill prohibiting the use of funds therein by the Postal Service to support in-county second class rates of postage for any issue of a publication unless distribution of that issue is within the county of publication above a certain percentage was held to require new determinations of in-county distributions on an issue-by-issue basis not shown to be required by existing law. 99-1, July 26, 1985, p 20808. *Note:* This is an important precedent on the question of the "incidental" or "ministerial" nature of the duties being imposed, and indicates that the Committee on Appropriations must be prepared to show that the responsibilities being imposed are already required by law.

§ 11.49 An amendment to a general appropriation bill prohibiting the use of funds therein by federal officials to impose mandates on states where those mandates have not been fully complied with by federal agencies was ruled out as legislation requiring new determinations of full compliance not otherwise required by law. 97-1, July 22, 1981, p 16829.

§ 11.50 It is not in order on a general appropriation bill to make the availability of funds dependent upon determinations made in other administrative processes but not required by law under the program or activity being funded. 97-1, Nov. 18, 1981, pp 28076, 28077. An amendment to the District of Columbia appropriation bill denying the use of funds to grant business licenses to persons who offer for sale in the course of business drug paraphernalia, as defined in a Model Drug Paraphernalia Act (which required findings of intent that certain articles for sale be intended for use in drug preparation or use), was ruled out as legislation requiring new duties and judgments of government officials. 97-1, Sept. 22, 1981, pp 21576, 21577. *Note:* The Model Drug Paraphernalia Act had not been enacted by the D.C. City Council as part of D.C. law, and the standards and determinations required therein were not applicable to D.C. licensing officials.

§ 11.51 An amendment to a general appropriation bill prohibiting the use of funds therein for loans not repayable at a certain minimum interest rate or interest payable without regard to value of collateral was held to require new determinations not required by law as to the nature of interest on loans and was ruled out as legislation in violation of clause 2 of Rule XXI. 97-2, July 29, 1982, p 18624.

§ 11.52 An amendment to a general appropriations bill making an appropriation for mortgage reduction assistance payments, with substantive new authority conferred on, and

duties required of, the Secretary of HUD, was ruled out as legislation. 97-2, Sept. 15, 1982, pp 23679, 23680.

§ 11.53 A section in a general appropriation bill denying the use of funds therein for paying contract claims occurring more than 18 months prior to submission of the claim, and defining "submission" for purposes of the bill as being in accordance with provisions of other law and with regulations to be promulgated by an executive official, was conceded to constitute legislation imposing new duties and standards and was ruled out in violation of clause 2(c) of Rule XXI. 98-1, Nov. 2, 1983, p ..... *Note:* A limitation merely denying funds to pay claims occurring before a certain date might have been in order, but the added definitions which imposed certification requirements of other law and required the promulgation of new regulations constituted legislation.

§ 11.54 A paragraph in a general appropriation bill denying use of funds therein to sell loans to private interests, except with the consent of the borrower, was conceded to be legislation requiring new determinations of "consent" and was ruled out in violation of clause 2(c) of Rule XXI. 98-2, May 31, 1984, P .....

§ 11.55 A provision in a general appropriation bill limiting funds available for use for floating storage or transportation of petroleum unless shipped or stored on vessels documented and built in the United States was conceded to require additional duties not required by existing law as well as not being confined to funds in the bill and thus was ruled out of order as violative of clause 2 of Rule XXI. 98-2, Aug. 1, 1984, p .....

§ 11.56 A provision in a general appropriation bill limiting the use of funds in the bill or any other act from being used for certain overseas military construction projects unless the lowest bid of a U.S. contractor exceeds



the estimate for the project by 20 percent or more was conceded to change restrictions in existing law and to require additional duties to be performed by executive officials and was ruled out as legislation in violation of clause 2 of Rule XXI. 98-2, Aug. 1, 1984, p .....

§ 11.57 A paragraph in a general appropriation bill directing an agency to declare certain federal property excess and directing its sale by another agency was ruled out as legislation in violation of clause 2, Rule XXI. 99-1, June 6, 1985, p 14609.

§ 11.58 A section in a general appropriation bill authorizing the Secretary of the Interior to convey certain lands in a national recreation area to a state to be used as an arts center was conceded to be legislation and was ruled out in violation of clause 2, Rule XXI. 99-1, July 31, 1985, p 21862.

§ 11.59 A paragraph in a general appropriation bill expressing the sense of Congress that an executive official should administer a farm program contained in a bill which had not become law was conceded to be legislation in violation of clause 2, Rule XXI. 99-2, May 8, 1986, p .....

§ 11.60 Where existing law prohibits certain activities by United States persons, a provision in a general appropriation bill prohibiting the use of funds therein for procurements from foreign persons engaging in the same activity is legislation (1) as an application of legal standards of conduct to entities not covered by existing law, and (2) as imposing new duties on executive officials. 99-2, July 17, 1986, p .....

§ 11.61 A provision in a general appropriation bill directing a federal official to establish fees to be charged at a certain rate constituted a change in existing law in violation of clause 2(b), Rule XXI. 99-2, July 31, 1986, p .....

§ 11.62 A paragraph in a general appropriation bill expressing the sense of Congress that certain loan recipients under existing law should be eligible for additional credit and deferred debt repayment was conceded to be legislation in violation of clause 2, Rule XXI. 99-2, May 8, 1986, p .....

And a paragraph in the same bill that an executive official should complete a specified determination by a date certain of loan recipient qualifications was also conceded to be legislation. 99-2, May 8, 1986, p .....

See also § 11.51, *supra*.

## B. LEGISLATION AFFECTING PARTICULAR AGENCIES, OFFICERS, OR PROGRAMS

### § 18. Foreign Aid Programs; Foreign Affairs

§ 18.15 Where existing law required cash payments from foreign military sales to be available solely for payments to suppliers and refunds to purchasers, a provision in a general appropriation bill requiring such amounts to be deposited in the Treasury as miscellaneous receipts rather than credited as required by that law was conceded to be legislation in violation of clause 2(c) of Rule XXI. 98-1, Nov. 2, 1983, p .....

### § 19. Programs Involving Government Contracts; Procurement

§ 19.5 97-2, Nov. 30, 1982, p 28067.

§ 19.10 A proviso in a paragraph of a general appropriation bill limiting the price to be charged under certain contracts was conceded to be a change in existing law and was ruled out in violation of clause 2 of Rule XXI. 98-2, May 22, 1984, p .....

## Chapter 27

## Amendments

A. INTRODUCTORY; OFFERING  
AMENDMENTS

## § 1. In General; Form

§ 1.4 An amendment must be accompanied by instructions to the Clerk as to the portion of the bill it seeks to amend, and is subject to a point of order if not proper in form. 99-1, Oct. 3, 1985, p 25971.

§ 1.6 Although the Clerk is directed by the House rules to deliver copies of amendments to the majority and minority committee tables, and while an amendment offered in the House must be reduced to writing, there is no rule requiring distribution of copies to individual Members. 97-1, June 25, 1981, p 14081.

§ 2. Effect of Special "Rule" or  
Resolution

§ 2.1 Pending consideration of a special order providing a "closed rule" for consideration of a bill in the House and ordering the previous question thereon, the Speaker indicated in response to a parliamentary inquiry that no amendment to the bill could be offered if the House adopted the rule, and that no amendment to the rule would be in order following the ordering of the previous question thereon. 99-1, Nov. 13, 1985, p .....

§ 2.6 Where a special rule governing consideration of a bill makes in order only one amendment to a particular title, unanimous consent is required before the offering of any other amendment to that title. 98-2, Aug. 10, 1984, p ..... *Note:* Unanimous-consent requests altering the terms of a special rule

have been entertained in the Committee of the Whole where the Chair felt the proposed procedure would differ in only minor respects from that adopted by the House. Ordinarily the Chairman of the Committee of the Whole will not entertain unanimous-consent requests to directly change a procedure in a substantive way which is imposed by the House by adoption of a special order. However, in one instance, by unanimous consent in the Committee of the Whole, an amendment adopted therein to a bill being considered under a "modified closed" rule permitting only certain amendments and no amendments thereto, was considered as having been added to an amendment in the nature of a substitute made in order by the rule prior to its being offered. 99-1, Dec. 17, 1985, p .....

*Note:* The Chair permitted a unanimous-consent request that the amendment be considered as having been part of the minority amendment in the nature of a substitute prior to its being offered—since it would make no substantive change in the bill from that which was permitted by the special order. In a related instance, by unanimous consent, following adoption of a "modified closed" rule permitting only one amendment to be offered to a joint resolution continuing appropriations, the Chairman of the Committee on Appropriations was permitted by the House to offer an additional amendment (merely changing a particular date) in the Committee of the Whole. 99-1, Nov. 12, 1985, p .....

§ 2.7 Where a bill was being considered for amendment pursuant to a special "modified closed" rule permitting only designated amendments to be offered and precluding amendments thereto, with debate on each amendment limited and controlled, the Chair

indicated that pro forma amendments for the purpose of debate were not in order. 99-2, May 21, 1986, p .....

§ 2.9 Where a special order governing consideration of a bill requires amendments to have been printed in the Record prior to their consideration, the Chair normally relies upon assurances of the proponent of the amendment that it is in the precise form as printed in the Record, but may insist in response to a point of order that the proponent cite the page of the Record. 98-1, Aug. 3, 1983, p ..... Where a special rule only permits the offering of amendments in the order printed in the Record, but the Record incorrectly prints certain amendments, the Chair has the prerogative of permitting an amendment to be offered in the form and order submitted for printing. 97-2, May 24, 1982, p 11542. A resolution reported from the Committee on Rules which prohibits amendments to a bill except amendments printed in the *Congressional Record* at least two legislative days before their consideration requires that those amendments be submitted for printing in the Record bearing a date of at least two days before their consideration. 97-1, June 11, 1981, p 12213. Where a special order of business permits the offering of only such amendments as are printed in the Record by a previous date, amendments may only be offered in the form as printed and unanimous consent is required to modify them on the floor. But if the Chair inadvertently permits the offering of an unprinted amendment which is adopted, those proceedings may be vacated only by unanimous consent. 99-1, Oct. 1, 1985, p 25467.

§ 2.10 The Chairman of the Committee on Rules obtained unanimous consent that Members have until 6 p.m. on that day to insert in the Record amendments to the first concurrent resolution on the budget for fiscal year 1982, where the Committee on Rules had under consideration a proposed special order for consideration of the budget resolution

making in order only designated amendments printed in the Record on that day. 97-1, Apr. 29, 1981, p 7812.

§ 2.13 Where a special order makes in order an amendment and provides that any Member may offer it, any Member seeking recognition may offer the amendment and is not required to qualify by stating he favors the amendment. 98-2, Apr. 4, 1984, p ..... Where a special order requires the prior printing of amendments in the *Congressional Record* but does not also require the offeror to have submitted it for printing, then any Member may offer the amendment once printed. 99-2, Apr. 10, 1986, p .....

§ 2.15 Unanimous-consent request, during consideration of a special order making in order and waiving points of order against an amendment to be printed in the *Congressional Record* on a date certain, to allow consideration of the amendment in the Committee of the Whole notwithstanding the fact that it was not printed in the Record pursuant to the resolution. 98-2, May 30, 1984, p .....

§ 2.27 Where a special order of business mandates that certain amendments be printed in the *Congressional Record* prior to their being offered, but does not impose the same requirement on amendments to amendments, an amendment offered as a substitute for an amendment in the nature of a substitute does not need to be printed in the Record prior to its consideration. 98-1, July 28, 1983, p .....

§ 2.29 Where a special order permitted the consideration in a designated numerical order of perfecting amendments printed in the Record if offered by their sponsors, the Chair indicated that a Member's offering of a numbered amendment would preclude his offering of a prior numbered amendment thereafter. 97-2, May 27, 1982, p 12465. However, where a special order adopted by the House governing consideration of a bill specifies the order in which amendments may be consid-

ered in Committee of the Whole, the House (but not the Committee of the Whole) may by unanimous consent change the order of consideration of the amendments. 98-2, June 14, 1984, p ..... Pursuant to a "modified closed rule" permitting only two designated Members to offer amendments which would not be amendable and not specifying the order of consideration, the Chair indicated that either amendment could be offered first but could not be offered during the pendency of the other amendment. 97-1, June 26, 1981, p 14492. In one instance, a special order permitted those perfecting amendments as printed in the Record to be initially offered in a designated order to any of three amendments in the nature of a substitute, and then permitted the (same) amendment to be offered by any Member to the other substitutes prior to offering of the next-numbered amendment. 97-2, May 26, 1982, pp 12075 et seq.

§ 2.38 A special order was reported from the Committee on Rules providing a "modified closed" rule and reversing the normal order of consideration of amendments in the nature of a substitute and perfecting amendments to a concurrent resolution on the budget in the Committee of the Whole and in the House, to first permit consideration of amendments in the nature of a substitute, with final adopted substitute reported to the House, and then to permit consideration of two perfecting amendments. 99-1, May 22, 1985, p 13001.

§ 2.39 The Committee of the Whole may not restrict the offering of amendments in contravention of a special order adopted by the House. Thus, where a special order adopted by the House permits the offering of amendments that have been printed in the Record by a certain date, the Committee of the Whole may limit debate on a pending title and all amendments thereto, subject to 10 minutes of debate on amendments printed in the Record, but may not preclude the offering of such amendment. 99-1, June 25, 1985, p 17201.

§ 2.41 Special order reported from the Committee on Rules limiting consideration of amendments affecting the subject matter of a designated section of a bill. 98-2, Aug. 2, 1984, p ..... Special order waiving certain points of order and including a provision prohibiting amendments "affecting" a certain title until that title is considered. 98-2, Aug. 9, 1984, p .....

§ 2.43 Special order reported from the Committee on Rules conferring preferential status on designated amendments to be considered en bloc to different titles of bill, which if adopted would be treated as original text for subsequent amendment under the five-minute rule. 97-1, Oct. 2, 1981, p 22879.

§ 2.44 Resolution providing for general debate to be equally divided between two committees jointly reporting a bill, and in lieu of perfecting amendments recommended by one committee, consider amendment in the nature of a substitute recommended by the other committee as original bill for amendment. 97-1, Oct. 14, 1981, p 23901.

§ 2.45 Resolution providing "open" rule, with general debate divided between primary and sequential committees, and in lieu of perfecting amendments from both committees, to consider compromise text of another bill as amendment in the nature of a substitute for amendment under the five-minute rule. 97-1, Oct. 15, 1981, p 24220.

§ 2.46 Resolution providing "open" rule for consideration of a joint resolution and permitting consideration as one amendment in the nature of a substitute to both the text and the preamble to the text of another joint resolution if offered by the ranking minority member of a committee. 97-2, Aug. 5, 1982, p 19662. *Note:* This was the first example of a special order which combined amendments to the text and to the preamble of a joint resolution as one amendment.



§ 2.47 Where a special order prohibited the offering of amendments to a bill following consideration of the final title for amendment, the Chair indicated that amendments in the form of new titles could be offered prior to consideration of the final title and that adoption of one such amendment would not preclude the offering of another immediately thereafter. 98-2, Aug. 10, 1984, p .....

§ 2.48 Special order providing "modified open" rule to consider committee amendment in the nature of a substitute; no amendments thereto except germane amendments already printed in the Record by the previous day. 98-2, Sept. 13, 1984, p ..... *Note:* This is the first instance of a special order requiring that amendments be printed in the Record prior to consideration of the special order.

§ 2.49 Resolution waiving points of order against consideration of bill authorizing new budget authority; "open" rule; in order to consider en bloc amendments printed in the Record and if offered by the chairman of the committee immediately after enacting clause is read, amendable but not divisible, and if adopted, become part of committee substitute as original text for further amendment. 99-1, July 18, 1985, p 19634. *Note:* This rule was unusual in that it permitted two opportunities to amend the amendments en bloc, first when pending and, second, after adopted and incorporated as part of the original text for further amendment.

§ 2.50 Where a bill is being considered under a special rule requiring prior printing of amendments in the *Congressional Record*, an amendment printed with specific page and line numbers may be offered in that form, even though that form does not reflect the offeror's intent. 99-1, Oct. 3, 1985, p 26021.

§ 2.51 The so-called "self-executing" special order has been applied in recent years to expedite the amendment process. In one instance, a special rule was reported to the House which contained an amendment strik-

ing certain language from a bill and declaring that such amendment "shall be considered to have been adopted." 99-2, July 24, 1986, p ..... And in 1986, a "modified closed" rule was adopted by the House deeming a specified group of amendments printed in the accompanying Committee on Rules report as having been adopted in the Committee of the Whole and in the House. 99-2, Sept. 24, 1986, p .....

§ 2.52 The Committee on Rules reported a "modified closed" rule permitting only two amendments on designated subjects in a specified order, the first consisting of the text of another reported bill under an "open" rule amendment process, and then the second amendment printed in the accompanying Rules Committee report amendable by a substitute and perfecting amendments to be submitted to the Rules Committee for possible inclusion in a supplemental report and for possible consideration under a "modified closed" rule terminating consideration of all amendments on that subject after a number of hours of debate. 99-2, Aug. 1, 1986, p .....

§ 2.53 Where the House had initially proceeded pursuant to the terms of a "modified closed" rule permitting consideration of two amendments on specified issues and permitting further consideration only as subsequently ordered by the House, the Committee on Rules reported a special order providing a "modified closed" rule delineating further consideration by major issues in a specified order of amendments and amendments thereto, utilizing so-called "King-of-Mountain" procedures where inconsistent amendments are adopted, and designating certain Members to offer amendments printed in the accompanying Rules Committee report in a certain order. 99-2, Aug. 7, 1986, p .....

§ 2.54 The Committee on Rules issued a "committee print" containing the text of a compromise amendment in the nature of a

substitute for a reported bill, together with 54 floor amendments to be made in order to that text in a specified order, including amendments recommended by sequentially reporting committees, and including debate limits on each amendment, to facilitate the amendment process under a "modified closed" rule. 99-2, Sept. 26, 1986, p .....

§ 2.55 Where the Committee of the Whole has adopted an amendment in the nature of a substitute for an entire measure, further amendments are precluded where the "modified closed" rule governing consideration permits the offering of two subsequent amendments only if the amendment in the nature of a substitute is rejected. 99-2, Apr. 16, 1986, p .....

### § 3. Offering Amendments; Priorities in Recognition

§ 3.2 Amendments recommended by a committee reporting a bill are normally considered before amendments offered from the floor. 97-2, Dec. 1, 1982, pp 28206, 28207.

### § 4. Time for Offering Amendments

§ 4.1 A pending motion being considered in the House is not subject to amendment unless the Member in control specifically yields for that purpose or unless the previous question is rejected. 98-1, Oct. 31, 1983, p .....

### § 6. Amendments in the Third Degree

§ 6.3 A substitute for an amendment is subject to amendment. 98-1, May 4, 1983, p .....

§ 6.4 Where there were pending the four amending motions permitted under Rule XIX, an amendment to the perfecting amendment to the substitute was held to be in the third degree and not in order. 99-1, June 25, 1985, p 17153.

§ 6.7 While a perfecting amendment to a pending substitute should retain some portion of the substitute so as not to be in effect a substitute in the third degree, the Chair does not look behind the form of the amendment absent a timely point of order from the floor to determine whether it is a proper perfecting amendment. 98-2, July 26, 1984, p .....

§ 6.11 Where there is pending an amendment and a perfecting amendment thereto, a substitute for the original amendment is in order and is not in the third degree (Rule XIX). 98-2, May 16, 1984, p .....

§ 6.12 For similar instances, see 97-2, Dec. 18, 1982, p ....., and 98-2, Oct. 11, 1984, p .....

§ 6.13 Where an amendment in the nature of a substitute is considered as original text for the purpose of amendment, pursuant to a special order, an amendment to an amendment thereto is not in the third degree and is in order. 98-1, Sept. 30, 1983, p .....

Where an amendment in the nature of a substitute, not considered as original text for the purpose of amendment, is pending, perfecting amendments are in order which change portions of the amendment in the nature of a substitute not already changed by amendment, but a perfecting amendment to the amendment in the nature of a substitute would be in the third degree and is not in order. 98-1, Oct. 3, 1983, p .....

§ 6.14 While a motion to strike out is pending, it is in order to offer an amendment to perfect the language proposed to be stricken out; such a perfecting amendment (which is in the first degree) may be amended by a substitute (also in the first degree), and amendments to the substitute are then in the second degree and in order. 98-1, Oct. 19, 1983, p .....

## B. READING FOR AMENDMENT; WHEN TO OFFER AMENDMENT

### § 8. Amendments to Text Passed in the Reading

§ 8.3 To a bill being considered for amendment by titles, amendments to a title which has been passed in the reading may be offered only by unanimous consent. 99-1, Dec. 3, 1985, p ..... While it may be in order to offer an amendment to the pending portion of a bill which not only changes a provision already amended but also changes an unamended pending portion of the bill, it is not in order merely to amend portions of a bill that have been changed by amendment or to amend unamended portions that have been passed in the reading and are no longer open to amendment. 98-1, July 12, 1983, p ..... But adoption of an amendment inserting a new title immediately preceding the pending title of a bill does not foreclose perfecting amendments to the pending title, that title not having been passed in the reading for amendment. 99-1, June 21, 1985, p 16858.

§ 8.4 The Chair inquires whether any Member seeks to offer an amendment to the pending portion of a bill before recognizing a Member to offer an amendment inserting a new section or title thereafter. 98-2, May 3, 1984, p ..... An amendment adding a new section at the end of a bill is in order when the last section of the bill has been read for amendment and no amendments to that section are offered. 98-2, June 26, 1984, p ..... Where an amendment adding a new title to a bill has been adopted, an amendment to the title of the bill that was pending when the amendment was offered comes too late and may be offered only by unanimous consent. 98-2, May 3, 1984, p .....

§ 8.6 A Member may obtain unanimous consent to permit him to offer an amendment in the Committee of the Whole at a subsequent

time when the reading of that portion of the bill may have been passed. 97-2, July 22, 1982, p 17446; 99-1, June 20, 1985, p 16556; 99-1, June 21, 1985, p 16849. But there is no custom or tradition of comity in the House which suggests that Members will always be accorded that permission. 98-2, Jan. 31, 1984, p .....

§ 8.7 Where by unanimous consent in the Committee of the Whole a bill is considered as read and open to amendment at any point, adoption of an amendment adding a new section at the end of the bill does not preclude subsequent amendments to previous sections of the bill. 99-2, Apr. 17, 1986, p .....

### § 9. Amendments to Text Not Yet Read; Amendments En Bloc

§ 9.1 To a bill being considered for amendment by titles, amendments to titles of the bill not yet designated by the Clerk may be offered only by unanimous consent. 99-1, Dec. 3, 1985, p .....

§ 9.3 To a bill being read for amendment by titles, an amendment to the pending title and to a subsequent title may be divided and offered as amendments en bloc only by unanimous consent. 99-1, Oct. 1, 1985, pp 25418-20.

§ 9.4 Motions to strike out and insert provisions on diverse pages and lines of a bill and to insert a new section constitute separate amendments which can be offered en bloc only by unanimous consent, even if the bill has been considered as read and open to amendment at any point. 97-1, Sept. 16, 1981, p 20736.

## **§ 11. Amendments to Bills Considered as Read and Open to Amendment**

**§ 11.10** Similarly, where a special order provides that the bill is considered as read and that no amendments are in order except certain amendments which are considered as having been read and having been adopted, the entire amended text appears in the Record following the conclusion of general debate. 99-1, Oct. 31, 1985, p 29841.

**§ 11.12** Where a special order provided that a bill be considered by titles for amendment and that each title be considered as read and also provided that specified amendments en bloc be considered as original text for the purpose of subsequent amendment if adopted, the Chair indicated in response to a parliamentary inquiry that adoption of those amendments totally changing two titles of the bill would not require those titles to be read in full when subsequently considered for amendment, but merely to be designated by number and then open to amendment at any point. 97-1, Oct. 7, 1981, p 23491.

## **C. OFFERING PARTICULAR KINDS OF AMENDMENTS; PRECEDENCE AND PRIORITIES**

### **§ 13. In General; Perfecting Amendments**

**§ 13.1** Delete the citation to Feb. 7, 1963 [H.R. 7152]. A perfecting amendment to a title of a bill takes precedence over a motion to strike out that title, and may be offered and voted on while the motion to strike out is pending. 98-1, July 29, 1983, p .....

**§ 13.8** Where there is pending an amendment in the nature of a substitute for an entire measure, it is in order to offer a perfecting amendment to that portion of the original text

which has been read. Likewise, where there is pending an amendment in the nature of a substitute, perfecting amendments and amendments thereto to the pending portion of underlying text may be offered and are voted on prior to the vote on the amendment in the nature of a substitute and amendments thereto. 98-1, Apr. 13, 1983, p .....; 98-1, July 28, 1983, p .....

### **§ 14. Motions to Strike**

**§ 14.4** A motion to strike out an entire subsection of a bill is not a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment. 97-2, Sept. 23, 1982, pp 24963, 24964.

### **§ 15. Motions to Strike Out and Insert**

**§ 15.2** Where there is pending a motion to strike out language in a bill and a preferential perfecting amendment (to strike the same language and insert new language) is then offered and agreed to, the motion to strike out falls and is not voted on. 99-2, Aug. 5, 1986, p .....

**§ 15.4** A motion to strike out and insert a portion of a pending section is not in order as a substitute for a motion to strike out the section, but may be offered as a perfecting amendment to the section and is first voted upon, subject to being eliminated by subsequent adoption of the motion to strike out. 97-1, July 16, 1981, p 10658.

### **§ 16. Substitute Amendments**

**§ 16.9** Ordinarily, a substitute for a motion to strike out is not in order; rather, preferential perfecting amendments to the text proposed to be stricken may be offered and voted on first, pending the motion to strike out. Jeffer-



son's Manual § 469. However, in one instance, the Chair permitted a perfecting amendment inserting language at the end of a paragraph to be offered as a substitute for an amendment striking out the paragraph, since the order of voting on the two amendments would be no different. 99-1, July 10, 1985, pp 18416, 18418.

§ 16.10 To an amendment adding a new section to a bill, an amendment making perfecting changes in the bill rather than in the amendment is not a proper perfecting amendment, but may, if germane, be offered as a substitute for the original amendment. 98-2, Apr. 26, 1984, p .....

## § 17. Amendments to Titles and Preambles

§ 17.1 Pursuant to Rule XIX, the title of a bill can only be amended after the bill has been passed, and an amendment in Committee of the Whole proposing, *inter alia*, an amendment to the title is not in order. Where a Member offers an amendment under the five-minute rule which includes an amendment to the title, the Chair may direct the Clerk to disregard that portion of the amendment and report only the amendment to the text of the bill. 99-2, Jan. 29, 1986, p .....

§ 17.5 An amendment to the preamble of a Senate joint resolution is considered after disposition of amendments to the text of the joint resolution and pending the third reading. 97-1, Nov. 19, 1981, pp 28208, 28209.

§ 17.6 A motion to limit debate on a committee amendment in the nature of a substitute for the text of a joint resolution (being considered as original text) and on all amendments thereto does not cover amendments to the preamble, which is only considered for amendment following disposition of all amendments to the text. 98-1, Mar. 16, 1983, p .....

## D. WITHDRAWAL OR MODIFICATION OF AMENDMENT

### § 18. Withdrawal

§ 18.7 Where a point of order is made or reserved against an amendment and a unanimous-consent request is then made for the withdrawal of the amendment, the Chair may first dispose of the unanimous-consent request before ruling on the point of order. 98-1, June 7, 1983, p .....

§ 18.17 99-1, Dec. 12, 1985, p ....., ruling that a pending amendment may be withdrawn by unanimous consent in the Committee of the Whole.

### § 19. Modification

§ 19.2 The proponent of an amendment may offer an amendment to his amendment only by unanimous consent. 99-1, Oct. 1, 1985, p 25453. A request to modify an amendment, when made by a Member who is not the proponent thereof, is sometimes treated as a motion to amend rather than as a unanimous-consent request. Thus, in one instance, the Chair considered a unanimous-consent request by one Member to modify the pending amendment of another Member as an amendment to the amendment when reduced to writing, to be voted on separately. 99-1, Dec. 5, 1985, p .....

§ 19.9 Unanimous consent was obtained in the House to modify an amendment printed in the *Congressional Record* and made in order for consideration in the Committee of the Whole by a special order. 99-1, Sept. 4, 1985, p 22837. In a similar instance, where a "modified closed" rule adopted by the House permitted the offering of specified amendments as printed in the Record, and precluded amendments thereto, unanimous consent was granted in the House to modify one of the

amendments before it was offered. 99-1, Oct. 24, 1985, p 28737.

§ 19.10 A specified amendment made in order by a rule adopted in the House may, by unanimous consent, be modified upon being offered in the Committee of the Whole. 99-2, Aug. 5, 1986, p ..... In one instance, an amendment in the Committee of the Whole was modified by unanimous consent to refer to the "Union Calendar version" of the bill being considered. 99-1, Oct. 3, 1985, p 26023.

§ 19.11 An amendment specifically made in order under a "modified closed" rule adopted by the House and not amendable thereunder may be modified in the Committee of the Whole only by unanimous consent. 99-2, Aug. 14, 1986, p .....

§ 19.12 Where a "modified closed" rule adopted by the House permits a designated Member to offer an unspecified amendment to a bill in the Committee of the Whole, such amendment to be not subject to amendment, the Committee of the Whole may by unanimous consent permit that Member to modify his amendment when pending, as such permission does not change the rule adopted by the House. 99-2, Oct. 16, 1986, p .....

## E. CONSIDERATION AND VOTING

### § 20. In General; Reading of Amendment

§ 20.1 Pursuant to new clause 5(b) of Rule XXIII, as adopted in the 97th Congress, it is in order in Committee of the Whole to move to dispense with the reading of an amendment which has been printed in the *Congressional Record* and submitted to the clerk or designated staff member of the reporting committee at least one day prior to consideration of the amendment; the motion is not subject to debate. 97-1, May 6, 1981, p 8721. *Note:* This was the first occasion on which the new

motion was utilized. The Chair took judicial notice of the fact that the amendment had been printed in the Record and submitted to the staff of the Budget Committee.

§ 20.2 An amendment must be offered before it can be read, or before the reading may be dispensed with by unanimous consent. 99-1, Oct. 8, 1985, pp 26561, 26574.

§ 20.3 In one instance, the Chairman of the Committee of the Whole directed the Reading Clerk to rereport an amendment, already under debate, which the Clerk had not reported in its entirety. 98-1, June 16, 1983, p ..... *Note:* Unanimous consent was not technically required to rereport the amendment, since the Chair has the obligation to ensure that the entire text of an amendment has been read or considered as read.

§ 20.11 An amendment cannot be "accepted" by the majority and minority managers of a bill but must be voted on, and until the Chairman of the Committee of the Whole puts the question on the amendment, a Member may be recognized to debate the amendment for five minutes by offering a pro forma amendment. 97-1, Nov. 18, 1981, p 28026.

§ 20.13 Where a motion is made to concur in a Senate amendment with an amendment, the House amendment must be read in full unless its reading is dispensed with by unanimous consent. 97-2, Dec. 20, 1982, p .....

### § 21. Order of Consideration

§ 21.1 A perfecting amendment to an amendment must be offered before the vote on the amendment. 98-1, May 4, 1983, p ..... Once a perfecting amendment to an amendment is disposed of, the original amendment, as amended or not, remains open to further perfecting amendment, and all such amendments are disposed of prior to voting on substitutes for the original amendment and amendments thereto. 98-2, July 26, 1984, p ..... Under the

five-minute rule a substitute for an amendment can only be read after the proponent of the original amendment has debated his amendment and the proponent of the substitute has been recognized to offer his alternative. 99-1, Oct. 8, 1985, pp 26561, 26574, 26575.

## § 22. Perfecting Amendments; Motions to Strike

§ 22.1 Where an amendment striking out a section is first offered, and an amendment to change a portion of the section proposed to be stricken is then offered as a perfecting amendment (in the first degree) to the bill and not as an amendment to the motion to strike, the perfecting amendment is voted on first and remains part of the bill if the motion to strike is then rejected. 99-2, Sept. 18, 1986, p .....

§ 22.2 While a committee amendment striking out a subsection is pending, another amendment perfecting the text by striking and inserting a new subsection may be offered and is voted on first, and if agreed to, the amendment striking the subsection falls and is not voted on, as the subsection has been amended in its entirety. 98-1, Nov. 3, 1983, p ..... (See also *Manual* § 469.)

## § 25. Considering Amendments En Bloc

§ 25.2 Amendments considered en bloc by unanimous consent are considered as one amendment, and a point of order against any portion thereof renders the entire amendment subject to a point of order (but if some of the amendments considered en bloc are not subject to a point of order, they may be offered separately without being subject to a point of order). 98-2, June 21, 1984, p ..... Thus, if a point of order is sustained against any portion of a package of amendments considered en bloc to a general appropriation bill, all the

amendments are ruled out of order and must be reoffered separately, or those which are not subject to a point of order may be considered en bloc by unanimous consent. 97-1, Sept. 16, 1981, pp 20735-38.

§ 25.7 Numbered Senate amendments reported from conference in disagreement, on which the manager proposes that the House recede and concur, may be considered en bloc by unanimous consent. 97-1, June 4, 1981, p 11510.

§ 25.8 Where a special order adopted by the House permitted the en bloc consideration of amendments printed in the Record on a date certain, the House by unanimous consent permitted the inclusion of additional amendments (unprinted) as part of the amendments to be considered en bloc. 99-1, July 22, 1985, p 19846.

## § 26. Debating Amendments

§ 26.14 Where a special order permits both the offering of specified perfecting amendments in a certain order and pro forma amendments, the Chair has discretion to recognize Members to offer pro forma amendments to debate the underlying text between consideration of perfecting amendments. 97-2, May 26, 1982, p 12141.

§ 26.15 Where a "modified closed" rule permitted only one amendment in the nature of a substitute and one substitute therefor, and divided a separate hour of debate on each between the same two Members, the Chair permitted the total time to be accumulated and consumed before putting the question on the substitute. 97-2, June 10, 1982, p 13409.

§ 26.16 By unanimous consent, remaining debate fixed at a time certain on an amendment in the nature of a substitute may be converted to minutes of debate and reserved to follow disposition of a pending perfecting



amendment not covered by the limitation. 98-1, Apr. 13, 1983, p .....

§ 26.18 Where the question has been put on the first portion of a divisible amendment, further debate on the remaining portion may be had under the five-minute rule before the Chair puts the question thereon. 98-1, Aug. 4, 1983, p .....

## F. EFFECT OF CONSIDERATION OR ADOPTION; CHANGES AFTER ADOPTION

### § 27. In General; Effect of Adoption of Perfecting Amendment

§ 27.1 For an application of the general rule that it is not in order to further amend that portion of a bill which has already been changed by amendment, see 98-1, Aug. 3, 1983, p .....

While under general procedure an amendment may not be offered which directly changes an amendment already agreed to, where the House has adopted a special rule permitting amendments to be offered even if changing portions of amendments already agreed to that principle does not apply. 97-2, Nov. 30, 1982, p 28049.

§ 27.18 Under the five-minute rule, no debate may intervene after a substitute for an amendment has been adopted and before the vote on the amendment, as amended, except by unanimous consent (since the amendment has been amended in its entirety and no further amendments including pro forma amendments are in order). 98-1, Oct. 18, 1983, p .....

§ 27.19 A point of order against an amendment to a substitute does not lie merely because its adoption would have the same effect as the adoption of a pending amendment to the original amendment and would render the substitute as amended identical to the original amendment as amended. *Note:* The prece-

dents do not preclude the offering of an amendment to a substitute merely because it is similar to or achieves the same effect as an amendment to the original amendment. 98-1, May 4, 1983, p .....

### § 28. Adoption of Amendment as Precluding Motions to Strike

§ 28.1 Since it is not in order to offer an amendment merely striking out an amendment previously agreed to, where a committee amendment has added a new paragraph to a subsection, it is not in order to subsequently offer an amendment that merely strikes out that new paragraph. 99-1, Oct. 9, 1985, pp 26952, 26957.

### § 30. Adoption of Amendment in Nature of Substitute

§ 30.3 Where there was pending in the House under the hour rule a resolution and a committee amendment in the nature of a substitute, the Chair indicated that an amendment to the committee amendment could only be offered if the manager yielded for that purpose or if the previous question were rejected, and that a motion to recommit with instructions containing a direct amendment could not be offered if the committee substitute were adopted (it not being in order to further amend a measure already amended in its entirety). 98-1, Mar. 22, 1983, p .....

### § 31. Amendments Pertaining to Monetary Figures

§ 31.1 The adoption of an amendment changing a figure in a bill precludes the offering of a subsequent amendment further changing that figure. 99-1, July 17, 1985, p 19444; 99-1, July 18, 1985, pp 19648 et seq.

§ 31.3 While a lump-sum figure in a general appropriation bill once amended cannot be further changed by amendment, additional



language inserting a specific authorized appropriation following the amended figure may still be offered. 98-1, Nov. 1, 1983, p .....

§ 31.6 While it is not in order to directly change a portion of a bill already changed by amendment, an amendment adding a new section having the indirect affect of changing amended amounts in the bill may be in order. 99-1, July 31, 1985, p 21911.

## § 32. Effecting Changes by Unanimous Consent

§ 32.2 By unanimous-consent request in Committee of the Whole, consideration of amendments to modify amendments already adopted may be permitted. 98-2, June 28, 1984, p .....

§ 32.4 By unanimous consent, the Committee of the Whole permitted two Members to offer amendments to change a figure in an appropriation bill which, if adopted, would not preclude the offering of subsequent amendments to that amended text. 97-1, July 22, 1981, pp 16777-88.

§ 32.5 By unanimous consent in the Committee of the Whole, an amendment which has been adopted to an amendment may be considered as adopted in identical form, to a pending substitute for the amendment. In this instance, where a "modified closed" rule adopted by the House permitted a Member to offer an identical amendment to both a pending amendment and a substitute therefor, and where the amendment to the original amendment had been offered and adopted, but the Clerk had mistakenly reported the amendment as offered to the substitute, the Chair so advised the proponent, who obtained unanimous consent in the Committee of the Whole that the amendment be considered as adopted to both the amendment and substitute. 99-2, Aug. 5, 1986, p .....

## § 33. Amendments Previously Considered and Rejected

§ 33.5 A portion of a rejected amendment may be subsequently offered as a separate amendment if presenting a different proposition. Thus, rejection of an amendment consisting of two sections does not preclude one of those sections being subsequently offered as a separate amendment. 97-1, July 15, 1981, p 15899.

§ 33.6 Rejection of an amendment changing a figure in a bill does not preclude the offering of a different amendment to that provision. And until adoption of an amendment to strike out and insert changing a figure in a bill, further amendments to change the figure are in order. 97-1, Nov. 18, 1981, p 28048.

## G. HOUSE CONSIDERATION OF AMENDMENTS REPORTED FROM COMMITTEE OF THE WHOLE

## § 34. In General; Demands for Separate Vote

§ 34.1 Where the Committee of the Whole reports a bill back to the House with an amendment in the nature of a substitute, a separate vote may not be demanded on an amendment adopted to that substitute in the Committee of the Whole unless the special order governing consideration of the bill expressly allows such separate votes, since only one amendment in its perfected form has been reported from Committee of the Whole. 98-1, Nov. 17, 1983, p .....

§ 34.10 Where a special rule permitted the offering of a second amendment notwithstanding prior adoption of the first amendment completely rewriting the same portion of the bill, the Chair indicated that only the second amendment, if adopted, would be reported to

the House, since the special order did not permit a separate vote in the House on "any" amendment adopted in Committee of the Whole. 98-1, Mar. 9, 1983, p .....

## § 35. Order of Consideration

§ 35.2 98-2, May 31, 1984, p .....

## Chapter 28

# Amendments and the Germaneness Rule

## A. GENERAL PRINCIPLES

### § 1. Introduction

§ 1.5 The germaneness of an amendment is determined by the relationship between its text and the portion of the bill to which offered, and is not judged by motives for offering the amendment which circumstances may suggest. 98-2, May 30, 1984, p .....

§ 1.6 In ruling on germaneness, the Chair does not construe the legal effect of the bill, law, or amendment in question, but only rules on whether the amendment addresses the same subject matter as the bill. 98-2, June 26, 1984, p .....

### § 2. Proposition to Which Amendment Must Be Germane

§ 2.4 Where a bill is by unanimous consent being considered as read and open to amendment at any point, the germaneness of an amendment to a portion of that bill may be judged by its relationship to the bill as a whole rather than merely to the section of the bill to which offered. Thus, to a bill open to amendment at any point containing protections of the rights of mentally-ill institutionalized persons and also a separate title promoting support groups for persons suffering a certain memory disorder whether or not institutionalized, an amendment expanding the bill's protections to include noninstitutiona-

lized, mentally-ill persons who are in need of such institutionalization was held germane to the bill as a whole, since the bill already covered some persons who were not confined. 99-2, Jan. 30, 1986, p .....

### § 3. Amendment as Relating to Subject Under Consideration

§ 3.10 To an amendment authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane. 99-1, June 26, 1985, p 17460. *Note:* This ruling in effect overturned 8 Cannon § 2989, in which, to a river and harbor authorization, a substitute providing a commission to consider and report on that subject was held not germane.

§ 3.26 To a bill requiring, *inter alia*, a general study of factors which affect domestic production of automobiles, an amendment requiring the study of a particular factor (currency exchange rates) as they affect that production is germane as a more specific proposition within the same general category. 98-1, Nov. 3, 1983, p .....

But, to a bill mandating that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction and requiring diverse studies of the impact of the bill and of discriminatory practices of manufacturers affecting domestic production of automobile parts, an amendment directing the Attorney

General to study the antitrust and tax implications of automobile manufacturers' sale-price differentials was held not germane as relating to a subject (antitrust and tax law) beyond the scope of studies and requirements contained in the bill. 98-1, Nov. 3, 1983, p ..... To a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, and imposing an import restriction for automobiles on any person violating that requirement, an amendment waiving the requirement for the products of one country if the balance of trade with such country in automotive products bears a certain relationship with the overall trade deficit with that country, was held germane, as a related contingency dealing with the same subject matter as the bill. 97-2, Dec. 15, 1982, p ..... On the other hand, to a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, and imposing an import restriction for automobiles on any person violating that requirement, an amendment waiving the applicability of the content ratios with respect to a foreign nation where the President has issued a proclamation stating that that nation is not imposing unfair restrictions against the entry of *any* U.S. product into its domestic market was held nongermane as an unrelated contingency dealing with different subject matter (trade issues affecting any U.S. product) rather than the subject matter of the bill (domestic content requirements for automobiles). 98-1, Nov. 2, 1983, p .....

§ 3.29 To a special order waiving certain points of order against a general appropriation bill but not waiving points of order against nongermane amendments, an amendment in the nature of a substitute waiving all points of order against a nongermane amendment to be offered to the bill was held not germane. 97-2, Aug. 13, 1982, pp 20969 et seq.

§ 3.30 To a title of a bill containing diverse provisions relating to the authority of the Secretary of Defense, amended to establish a study of the use of the merchant marine for defense purposes, an amendment waiving the coastwise trade laws for not more than two (undesignated) commercial passenger vessels to meet an auxiliary sealift capability was held germane, where the amendment was textually not in the form of a private bill and was related to national security issues. 98-2, May 30, 1984, p .....

§ 3.31 To a House bill restricting *remedies* under existing (antitrust) law against local governments, but not addressing the authority of a federal agency to prosecute antitrust actions or the availability of appropriated funds to that agency for that purpose, a Senate amendment included in a conference report repealing a limitation in an appropriation law for that year on the use of funds by that agency to *conduct antitrust actions* against local governments was held not germane, since the amendment related to agency activities and funds not addressed in the House bill. 98-2, Oct. 11, 1984, p .....

#### § 4. Committee Jurisdiction as Test

§ 4.1 To a title of a bill containing matters within the jurisdiction of the committee reporting the bill, an amendment dealing solely with a matter within the jurisdiction of another committee is not germane. Thus, to a title of a bill reported from the Committee on Armed Services, containing diverse provisions relating to national defense policy, military procurement and personnel, and including amendments containing conditions and restrictions on procurement funds in the bill, an amendment directing the President to submit reports on the Soviet Union's compliance with its arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs, was held not



germane. 99-1, June 27, 1985, p 17810. *Note:* The Chairman of the Committee of the Whole may determine the germaneness of an amendment based upon the discernible committee jurisdictions over the subject of the bill and amendment without infringing upon the Speaker's prerogatives under Rule X to determine committee jurisdiction over introduced legislation. 97-1, Oct. 14, 1981, pp 23898, 23899.

§ 4.2 Committee jurisdiction over the subject of an amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions. 99-1, Oct. 8, 1985, pp 26548-51. This principal was applied in 98-2, Aug. 10, 1984, p ....., holding that an amendment providing a cause of action to victims of hazardous wastes was germane to a bill containing diverse titles relating to hazardous waste cleanup, uses of a trust fund to finance removal, remedial actions, compensatory relief through private suits, relocation costs, replacement of drinking water supplies and other disaster relief, and amended to include a provision relating to deed covenants in government surplus property conveyances—several of such provisions bearing on subjects within the jurisdiction of committees other than the reporting committee. Furthermore, while committee jurisdiction may be an appropriate test of germaneness where the bill as reported contains matter only within the jurisdiction of the reporting committee, where the bill is amended in Committee of the Whole to include matters within the jurisdiction of another committee, further similar amendments may be germane. 99-1, July 11, 1985, p 18602. And while ordinarily an amendment waiving provisions of law within another committee's jurisdiction is not germane to a bill reported by a different committee, where the bill as amended already contains diverse provisions relating to the subject of the amendment, a waiver of other provi-

sions of law on that subject may be germane. 99-2, Sept. 19, 1986, p .....

§ 4.30 To a title of a bill reported from the Committee on Agriculture providing a price support program for domestic dairy products, an amendment not only reiterating the provisions of existing law regarding the effect of dairy imports on domestic dairy products but also containing congressional findings that tariff restrictions should be imposed on dairy imports was held to raise issues primarily within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane. 97-1, Oct. 14, 1981, pp 23898, 23899.

§ 4.46 To a bill reported from the Committee on Interior and Insular Affairs designating certain wilderness areas in Oregon, an amendment adding a new title to provide a program of unemployment and retraining entitlement payments to persons affected by such wilderness designations was held not germane as addressing a subject not contained in the bill and within the jurisdiction of other committees of the House. 98-1, Mar. 21, 1983, p .....

§ 4.47 To a bill reported from the Committee on Science and Technology authorizing environmental *research and development activities* of an agency for two years, an amendment expressing the sense of Congress with respect to that agency's *regulatory and enforcement activity*—a matter within the jurisdiction of another committee—was held not germane. 98-2, Feb. 9, 1984, p .....

§ 4.48 To a title of a bill reported from the Committee on Armed Services amending several laws within the jurisdiction of that committee on the subject of military procurement and military departments, an amendment amending and extending the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, and covering contracts entered into by other agencies not within the jurisdiction



of the Committee on Armed Services, was ruled out as not germane. 99-1, June 26, 1985, pp 17418, 17419.

§ 4.49 To a bill reported from the Committee on Public Works and Transportation amending the Federal Water Pollution Control Act, an amendment amending the Clean Air Act (a statute within the jurisdiction of the Committee on Energy and Commerce) to regulate "acid rain" by controlling emissions into the air was held not germane as amending a law and dealing with a subject within the jurisdiction of another committee. 99-1, July 23, 1985, p 20052.

§ 4.50 To an amendment directing the Commodity Credit Corporation to sell certain surplus stocks of dry milk, an amendment deeming as misbranded certain food substitutes for cheese was held to involve matter within the jurisdiction of another committee and ruled out as not germane. 99-1, Sept. 26, 1985, pp 25023-25.

§ 4.51 To a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of general revenue sharing funds (a matter within the jurisdiction of the Committee on Government Operations) by jurisdictions permitting the operation of homosexual male baths hazardous to the public health was ruled out as not germane, within another committee's jurisdiction and not confined to the issue of mental health. 99-2, Jan. 30, 1986, p .....

§ 4.52 To a title of a bill reported from the Committee on Agriculture amending an existing law relating to registration of pesticides, an amendment providing that notwithstanding any other law, no attorneys' fees shall be awarded in certain civil actions brought under the law being amended was held not germane, as indirectly amending another law within the jurisdiction of another committee governing fees in federal civil actions generally, and where nothing in the pending title

amended laws on that subject. 99-2, Sept. 19, 1986, p .....

## § 5. Fundamental Purpose of Amendment as Test

§ 5.1 While ordinarily a bill having a specific fundamental purpose may not be amended by a proposal broader in scope, an amendment in the form of a new title may be germane to a bill as a whole where that bill contains additional provisions not necessarily confined to the primary purpose and where the amendment falls within the overall parameters of the bill. 97-2, May 6, 1982, p 8933. In this instance, to a bill amending certain reclamation laws relating primarily to the eligibility of water users for increased irrigation water supply, but also containing miscellaneous provisions relating to persons and entities affected by reclamation laws generally, an amendment adding a new title to require a review of audit reports pertaining to Bureau of Reclamation water resource projects, including specified multi-purpose projects which provide hydroelectric power as well as water for irrigation, was held germane based upon the inclusion of diverse provisions in the bill not exclusively related to irrigation eligibility.

§ 5.10 An amendment to an existing law is not germane to a bill not amending that law and having a different purpose. In this instance, to a bill providing for a study of minimum altitudes by aircraft flying over units of the national park system and regulating air traffic over a specific national park, an amendment to a law not amended by the bill establishing standards for aircraft collision avoidance not confined to overflights in the national parks was ruled out as not germane. 99-2, Sept. 18, 1986, p .....

§ 5.34 To an amendment to an authorization bill authorizing the use of funds therein for a specific study, an amendment authorizing the availability of funds in that or any other act

for an unrelated purpose is not germane. 99-2, Aug. 15, 1986, p ..... In this instance, to an amendment to the Department of Defense authorization bill, authorizing funds for the Departments of Defense and Energy to conduct research on "nuclear winter" and to contract therefor with the National Academy of Sciences, an amendment designating by the name of a Senator any science and mathematics scholarship or fellowship program established during the 99th Congress under the bill or any other act was held not germane, as affecting programs in other acts not covered by the primary amendment.

### § 6. Amendment Accomplishing Result of Bill by Different Method

§ 6.1 To be germane, an amendment must seek to accomplish the same fundamental purpose of a bill by a closely related method within the jurisdiction of the committee reporting the bill. In this instance, to a bill authorizing financial assistance to unemployed individuals, an amendment in the nature of a substitute providing instead for tax incentives to stimulate employment involved an unrelated method within the jurisdiction of a different committee of the House. 98-1, Sept. 21, 1983, p .....

§ 6.30 To a proposal to provide financial assistance to domestic agriculture through a system of price support payments, an amendment seeking to protect that segment of domestic agriculture by restricting imports in competition therewith is not germane, since seeking to accomplish a purpose by an unrelated method within the jurisdiction of another committee. 97-1, Oct. 14, 1981, pp 23898, 23899.

### § 7. Individual Proposition Offered as Amendment to Another Individual Proposition

§ 7.1 99-2, Aug. 15, 1986, p ..... Applying the rule that an individual proposition is not germane to another individual proposition although the two may belong to the same class, it was held that, to a bill regulating poll-closing time in Presidential *general* elections, an amendment extending the provisions of that bill to Presidential *primary* elections is not germane. 99-2, Jan. 29, 1986, p .....

### § 8. General Amendments to Specific or Limited Propositions

§ 8.1 A specific proposition may not be amended by a proposition more general in scope. 97-2, Aug. 10, 1982, p 20263; 97-2, Sept. 23, 1982, pp 24963, 24964; 98-2, Jan. 24, 1984, p ..... Thus, to a proposition appropriating funds for a program for one fiscal year, an amendment permanently amending the authorizing law relating to eligibility for funding in any fiscal year is more general in scope and is not germane. 98-1, Oct. 5, 1983, p ..... Likewise, to a bill authorizing appropriations for a particular program for 10 fiscal years, an amendment restricting authorizations under any act of Congress for any fiscal year contingent upon implementation of a plan to reduce spending under the bill was held not germane as not confined to the bill under consideration. 98-2, Jan. 24, 1984, p .....

§ 8.11 For a perfecting amendment to a subsection striking out one activity from those covered by a provision of existing law, a substitute striking out the entire subsection, thereby eliminating the applicability of existing law to a number of activities, was held more general in scope and not germane. 97-2, Sept. 23, 1982, pp 24963, 24964.

§ 8.28 To a bill authorizing funds for radio broadcasting to Cuba, an amendment broad-

ening the bill to include broadcasting to all dictatorships in the Caribbean Basin was held not germane as more general in scope. 97-2, Aug. 10, 1982, p 20263.

§ 8.29 To a proposition limited in its application to a single agency within an executive department, an amendment applicable to all activities and agencies within the department is not germane. 97-2, Sept. 30, 1982, pp 26216-26.

§ 8.30 To a bill amending an existing law to promote economic development through financial assistance to local communities, an amendment requiring the study of the impact of all federal, state, and local laws and regulations (not merely the law being amended by the bill) on employment opportunities was held more general in scope and ruled out as nongermane. 98-1, July 12, 1983, p .....

§ 8.31 To a portion of a bill dealing with one aspect of federal spending (U.S. contributions to an international financial institution), an amendment relating to the entire federal budget, mandating that total outlays not exceed receipts, is broader in scope and not germane. 98-1, Aug. 3, 1983, p .....

§ 8.32 To a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction, and separately requiring a study of the impact of implementation of the bill on the automobile industry and on the exportation of other goods and services from the United States, an amendment delaying the effectiveness of the entire bill contingent upon a certification that the bill will have a net positive effect on the total domestic employment levels was held to be nongermane as a condition referring to the entire range of employment in the economy and beyond the scope of the bill. 98-1, Nov. 3, 1983, p .....

§ 8.33 To an amendment only decreasing the fiscal year 1984 authorization for army am-

munition funds, a substitute adding language prohibiting use of any Defense Department funds for the production or procurement of binary chemical weapons was ruled nongermane as addressing funds not addressed by the pending amendment. 98-1, June 15, 1983, p .....

§ 8.34 While a specific proposition covering a defined class may not be amended by a proposition more general in scope, the Chair may consider all pending provisions presently being read for amendment in determining the generality of the class covered by that proposition. 99-2, Jan. 30, 1986, p .....

§ 8.35 To a individual proposition relating to mental health, an amendment addressing other public health hazards and funding programs unrelated to mental health is not germane. 99-2, Jan. 30, 1986, p .....

## § 9. Amendment Adding to Two or More Propositions of Same Class; Specific Amendments to General Propositions

§ 9.12 An amendment defining a term in a bill may be germane so long as it relates to the bill and not to portions of laws being amended which are not the subject of the bill. Thus, to a bill clarifying the definition of persons or institutions which may have federal financial assistance terminated under several civil rights statutes because of discrimination, an amendment providing that the term "person" for the purpose of the bill shall include unborn children was held germane. 98-2, June 26, 1984, p .....

§ 9.32 A general proposition may be amended by a proposition more specific in scope if within the same class. 97-2, July 20, 1982, p 17093. In this instance, to an amendment in the nature of a substitute authorizing appropriations for diverse military procurement programs, including operation and mainte-



nance, an amendment authorizing establishment of a military preparedness grain reserve was held germane as confined to military procurement and as a more specific authorization to the general authorization contained in the substitute.

## § 10. Proposition and Amendment as Affecting Different Classes

§ 10.8 To a bill dealing with a certain class of federal employees, an amendment to bring other classes of employees within the scope of the bill is not germane. 99-1, Oct. 9, 1985, p 26954.

§ 10.10 However, to a bill having as its fundamental purpose the clarification of eligibility of existing recipients for federal financial assistance under several statutes, an amendment deeming a specified entity to be a recipient of federal financial assistance for the purposes of those laws was held to be nongermane as expanding the scope of coverage of the laws being amended to a class not necessarily covered by the class of recipients in the bill. 98-2, June 26, 1984, p .....

§ 10.17 To a bill dealing with several subjects within a certain class (penalties within the jurisdiction of one committee), an amendment adding another subject within a different class (penalty within the jurisdiction of another House committee) is not germane. In this instance, to a title of a bill reported from the Committee on Foreign Affairs comprehensively amending the Export Administration Act, and addressing penalties for violating export controls within that committee's jurisdiction, such as revocation of export licenses, an amendment authorizing the President to control imports by persons violating export controls was held nongermane as a penalty not within the class covered by the title, and as a matter within the jurisdiction of another committee. 98-1, Sept. 29, 1983, p .....

§ 10.18 To a bill authorizing categorical grants to certain *private entities* furnishing health care to medically underserved populations, a committee amendment authorizing direct grants to *states* for control of a certain public health hazard was held not germane as relating to different categories of recipients. 99-2, Mar. 5, 1986, p .....

## § 11. Amendments to Appropriation Bills

§ 11.11 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency for the same general purpose may not be germane although authorized by law. Thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood-utilization program authorized by law to be conducted by the Department of Agriculture was held not germane. 97-1, July 24, 1981, p 17226.

§ 11.13 To a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of certain recipients was conceded to go beyond the scope of the categories of legislative changes contained therein and to be nongermane. 97-1, Dec. 10, 1981, p 30538.

§ 11.14 To a Senate amendment pertaining only to an appropriation amount for an agency for one year, an amendment not only changing the appropriation figure but also adding language having the effect of permanent law was held nongermane. 98-1, June 29, 1983, p .....



§ 11.15 It is not germane to change a direct appropriation of new budget authority from the general fund of the Treasury into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account. 99-1, Feb. 28, 1985, p 4146. In this instance, to a bill providing new budget authority for emergency agricultural credit, an amendment contained in a motion to recommit with instructions to provide, in lieu of that new budget authority, for a transfer of unexpended balances of funds previously appropriated for a totally unrelated purpose was ruled out as not germane.

§ 11.16 To a paragraph in an appropriation bill containing funds for the Federal Bureau of Investigation, but not containing transfers of funds from other accounts in the bill, an amendment increasing that budget authority by transfer from funds contained in a paragraph not yet read for the National Endowment for Democracy was ruled out as not germane. 99-1, July 17, 1985, p 19436.

§ 11.17 Where a paragraph in a general appropriation bill has been amended to change the appropriation figures therein, a subsequent amendment adding a new section at the end of the bill "reducing" those amounts notwithstanding any other provision of the act was held in order as germane to the general provisions title to which offered and as not specifically amending a particular portion of the bill already amended. 99-1, July 31, 1985, p 21911.

## B. APPLICATION OF RULE TO PARTICULAR FORMS OF AMENDMENT OR PROPOSITION

### § 14. Amendment Adding New Section or Title to Bill

§ 14.12 The test of germaneness of an amendment adding a new title at the end of a bill is its relationship to the bill as a whole, as perfected. 98-2, Aug. 10, 1984, p .....; 99-1, July 11, 1985, p 18602; 99-1, Oct. 8, 1985, p 26551.

### § 16. Substitute Amendment; Amendment in Nature of Substitute; Amendment to Amendment

§ 16.1 An amendment to an amendment must be germane to that amendment. 99-1, Sept. 26, 1985, pp 25023-25. Even a substitute for an amendment must be germane thereto. 98-1, June 15, 1983, p .....

§ 16.8 The test of germaneness of a substitute is the relationship between the substitute and the amendment for which offered, and not between the substitute and the original bill. 97-2, July 28, 1982, p 18358.

### § 18. Instructions in Motion to Recommit

§ 18.7 To a joint resolution reported from the Committee on Appropriations continuing appropriations and containing diverse legislative provisions relating to funding directions and limitations, an amendment in the form of a motion to recommit with instructions containing a permanent change in existing law (within the jurisdiction of the Committee on Post Office and Civil Service) relating to salaries and allowances of certain federal employees was conceded to be nongermane in violation of clause 7 of Rule XVI. 97-1, Dec. 10, 1981, p 30538.

§ 18.8 While it is a proper test of germaneness that instructions in a motion to recommit a bill must be germane to the section of the bill to which offered (8 Cannon § 2709), an amendment in the form of a new title at the end of a bill need only be germane to the bill as a whole. In this instance, to a bill reported from the Committee on Agriculture dealing with registration of pesticides but also including provisions on liability under other federal law and on judicial review of regulations and pesticide use, an amendment in the form of a new title included in a motion to recommit waiving any other law otherwise requiring payment of attorneys fees for civil actions brought under the law being amended was held germane to the bill as a whole. 99-2, Sept. 19, 1986, p .....

### § 19. Amendment Proposing Permanent Legislation Offered to Temporary Legislation

§ 19.6 To a temporary authorization bill affecting existing law only to the extent of restricting an agency's use of funds authorized therein, an amendment not limited to that agency's use of funds but rather proposing a multiyear change in policy under the organic law governing that agency's operations is not germane. 97-2, Dec. 2, 1982, p 28537.

## C. HOUSE-SENATE RELATIONS

### § 20. Senate Amendments to House Bills and Amendments; Conference Agreements

§ 20.6 The Member representing the conference committee recognized in opposition to a motion to reject a nongermane Senate provision pursuant to clause 4 of Rule XXVIII, and not the proponent of the motion to reject, has the right to close debate thereon. After the 40 minutes of debate permitted by

clause 4 of Rule XXVIII, it is then in order, following the disposition of the motion to reject, to make further points of order and motions to reject. If any such motion is adopted, the pending motion (which may be offered by the manager of the conference report) is, in the case of a House bill with a Senate amendment, to recede from disagreement to the Senate amendment and concur therein with an amendment consisting of the portion of the conference report not rejected. 99-2, Oct. 15, 1986, p .....

§ 20.8 Rule XXVIII clause 4 sets forth the procedure permitting separate debate and votes on nongermane matter in certain Senate propositions. The test for identifying such matter is whether it would have been ruled nongermane if offered in the House as an amendment to the House-passed version. *Manual* § 913b. The test of germaneness under clause 4 of Rule XXVIII of a portion of a conference report originally contained in a Senate amendment is its relationship to the final House version of the bill committed to conference, and not to the original House-passed bill which may have been superseded by a House amendment to the Senate amendment prior to conference. 98-1, July 28, 1983, p .....

### § 21. — Amendment to Senate Amendment

§ 21.1 98-2, Aug. 10, 1984, p ....., (requiring that an amendment in a motion to recede and concur be germane to the Senate amendment).

§ 21.5 To a Senate amendment appropriating funds for asbestos hazards abatement in schools, a proposed House amendment which would also have earmarked a portion of those funds for the refinancing of the bond debt of the recycle energy system of a specified city was ruled out as nongermane, being totally

unrelated to the issue of asbestos hazard. 98-2, Aug. 10, 1984, p .....

## D. AMENDMENTS IMPOSING QUALIFICATIONS OR RESTRICTIONS

### § 22. In General: Amendments Providing for Exceptions or Exemptions

§ 22.6 To a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others is germane. 97-2, July 28, 1982, p 18358. In this instance, for an amendment denying eligibility for certain higher education assistance benefits to persons refusing to register for military service, a substitute denying benefits under the same provisions of law except to persons refusing to register for religious or moral reasons was held germane.

### § 23. Amendments Providing for Conditions or Qualifications

§ 23.6 On the other hand, an amendment conditioning the availability to certain recipients of funds in an authorization bill upon their compliance with federal law *not otherwise applicable to those recipients* and within the jurisdiction of other House committees may be ruled out as not germane. In this instance, an amendment to the Defense Department authorization bill, prohibiting the use of funds for certain procurement contracts with contractors who do not comply with all domestic U.S. laws regarding discrimination, was held not germane since requiring compliance with laws which were not otherwise applicable to the recipients of those funds, which were within the jurisdiction of other committees, and which were not related to the bill. 98-1, June 16, 1983, p .....

See also 91-2, Aug. 5, 1970, p 27471, for a ruling that an amendment to an omnibus agricultural bill, making certain price support payments contingent upon the recipient's compliance with the minimum wage provisions of the Fair Labor Standards Act (not applicable to agricultural employees), was not germane.

§ 23.19 It is not germane to condition assistance to a particular class of recipient covered by a bill on an unrelated contingency, such as action or inaction by another class of recipient or agent not covered by the bill. Thus, to a bill relating only to federal funding and programs for community and migrant health centers not operated by state governments, an amendment denying assistance under the bill to any health center located in any state which permitted the operation of public bath houses was ruled out as imposing a nongermane contingency on the use of funds, since state governments were not recipients of funds in, or otherwise affected, by the provisions of the bill. 99-2, Mar. 5, 1986, p .....

### § 24. Amendment Postponing Effectiveness of Legislation Pending Contingency

§ 24.1 An amendment making the effectiveness of a bill contingent on an unrelated event or determination is not germane. 98-1, Nov. 2, 1983, p .....

And it is not germane as an amendment to render a measure contingent upon an unrelated congressional action. Thus, to a bill authorizing appropriations for radio broadcasting to Cuba, an amendment prohibiting use of those funds until Congress has considered a constitutional amendment mandating a balanced budget was ruled out as nongermane, imposing an unrelated contingency requiring separate congressional action on another subject. 97-2, Aug. 10, 1982, p 20250.

§ 24.2 An amendment delaying operation of a proposed enactment pending an ascertainment



of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill (8 Cannon § 3029). 97-2, Dec. 15, 1982, p .....

§ 24.3 It is not germane to make the authorization of funds in a bill contingent upon unrelated events or policy determinations. 98-1, July 21, 1983, p ..... In this instance, to a title of a bill authorizing the development of certain military missile systems, broadened by amendment to restrict deployment beyond that fiscal year of one system pending tests, an amendment making expenditure of any funds for that missile system contingent upon the impact of U.S. grain sales on Soviet military preparedness was ruled not germane as an unrelated contingency involving agricultural exports.

§ 24.15 It is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving agencies and committee jurisdictions not within the purview of the authorization bill. Thus, to a title of a bill authorizing appropriations for military weapons, an amendment prohibiting the use of those funds for a certain weapon until the President certifies to Congress that he has taken certain treaty initiatives toward arms control was ruled out as not germane. 97-1, July 8, 1981, p 15010; 97-1, July 9, 1981, p 15218.

§ 24.23 While an amendment may not be germane which conditions the availability of an authorization upon an unrelated contingency involving issues and agencies beyond the jurisdiction of the reporting committee, a contingency may be related if merely requiring observation of similar activities of another country, which conduct already constitutes the policy basis for the authorization. 98-2, May 16, 1984, p ..... In this instance, to an amendment to a military procurement authorization bill reducing a line-item amount for air force missiles and prohibiting use of funds in that title for the MX missile program, an

amendment reducing instead the same line-item authorization by a different amount and also stating a policy with respect to the use of those funds for the unilateral cancellation of the MX system—by authorizing the funds at a subsequent time during the fiscal year if the President determines that the Soviet Union is not controlling similar weapons systems—was held germane as an alternative limitation imposing a conditional restriction which was not based upon an unrelated contingency.

§ 24.25 To a bill authorizing federal financial contributions to international lending institutions, an amendment making that contribution contingent upon enactment of a change in federal monetary policy having domestic implications and involving agencies beyond the scope of the bill is not germane. 98-1, Aug. 3, 1983, p .....

§ 24.26 An amendment making the effectiveness of a bill regulating certain activity dependent upon an unrelated contingency is not rendered germane merely because the bill also requires a separate study of the impact of the bill upon factors which are not being regulated by the bill. 98-1, Nov. 3, 1983, p .....

§ 24.27 To a proposition rescinding an agency's funds for motor vehicle seat belt and passive restraint *research and education*, an amendment conditioning the availability of *all* of that agency's funds pending state compliance with federal standards for *mandatory seat belt use* was ruled out as not germane, affecting regulatory operations and not confined to research and education funds. 99-1, July 31, 1985, pp 21832-34.

§ 24.28 To a proposition conditioning the availability of funds upon the enactment of an authorizing statute for an enforcing agency, a substitute proposal conditioning the availability of some of those funds upon a prohibition of certain imports into the United States is not germane, as establishing a contingency unrelated to that contained in the proposition



to which offered. 99-1, Nov. 7, 1985, p 30985.

## § 25. Amendments Providing Restrictions or Limitations

§ 25.10 To a bill providing for the transfer of specified property in the District of Columbia solely for the purpose of providing shelter to the homeless and to protect the public health, amended to include restrictions on liability and maintenance responsibilities, an amendment requiring reversion of the property if not used for that charitable purpose as defined under a provision of the Internal Revenue Code was held germane as a further restriction on the same use of the property. 99-2, June 5, 1986, p .....

## § 27 — Restrictions on Use of Funds

§ 27.1 To a proposition limiting the use of funds in a bill for a particular purpose, an amendment limiting the use of funds in other acts and for a purpose more general in scope is not germane. Thus, to a Senate amendment to an appropriation bill striking out a House provision prohibiting the use of funds in the bill for a designated oil land lease in California, a House amendment prohibiting the use of funds in the bill *or in any other act for that lease and other California leases* was conceded to be nongermane as more general in scope. 98-1, Oct. 5, 1983, p .....

§ 27.20 To a bill authorizing appropriations for all the annual activities of the Nuclear Regulatory Commission, including review and approval of exports of uranium, an amendment prohibiting the use of funds authorized in the bill to review, process, or approve exports of uranium enriched above a certain strength was held germane. 97-1, Nov. 5, 1981, pp 26715, 26716.

§ 27.21 To a provision authorizing funds for one fiscal year, an amendment restricting the

availability of funds appropriated pursuant thereto contingent upon enactment of subsequent specific authorization is germane. In this instance, to a bill authorizing funds for air force research and development, an amendment prohibiting use of those funds for certain tests until subsequent law authorizing such tests is enacted was held to be a germane condition. 98-1, July 21, 1983, p .....

§ 27.22 To an amendment precluding the availability of an authorization for a program for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative. In this instance, to an amendment as amended authorizing procurement of an MX missile system after a time certain during the fiscal year if the President determines that the Soviet Union is not limiting similar weapons, a subsequent amendment prohibiting the use of funds in that title as a one-year moratorium on the MX program notwithstanding other language in the amendment was held germane as an unconditional prohibition for the same fiscal year. 98-2, May 16, 1984, p .....

## E. RELATION OF AMENDMENT OR BILL TO EXISTING LAW

### § 28. Generally; Amendments to Bills Which Amend Existing Law

§ 28.1 An amendment must be germane to the pending bill, it not being sufficient that it relates to a provision of the law being amended by the bill which is not related to the subject of the bill. In this instance, to a title of a bill amending that portion of an existing law to extend the authorization for U.S. contributions to the International Monetary Fund, an

amendment to another section of that law mandating that the total budget outlays of the federal government shall not exceed its receipts was held not germane as addressing issues of federal spending and revenue beyond the scope of the title. 98-1, Aug. 3, 1983, p .....

§ 28.2 To a bill amending existing law in several particulars but relating to a single subject affected thereby, an amendment proposing to modify the law but not related to the single subject of the bill is not germane. Thus, to a bill narrowly amending an antidiscrimination provision in the Education Amendments of 1972 only to clarify the definition of a discriminating entity subject to the statutory penalties (denial of federal funding), an amendment redefining a class of discrimination (sex) was ruled nongermane as beyond the scope of the bill. 98-2, June 26, 1984, p .....

### § 33. Amendments Changing Existing Law to Bills Not Citing That Law

§ 33.23 Ordinarily, the inclusion of language in a bill "disclaiming" any substantive effect of the bill upon other provisions of law would not render germane amendments which do in fact affect other law; but where disclaimer language in a bill is accompanied by other provisions changing a category of law cited in the disclaimer, an amendment further addressing the relationship between the bill and laws cited in the disclaimer may be germane. In this instance, to a bill "disclaiming" any purpose to amend international agreements or to confer new federal court jurisdiction over conflicts arising under international agreements, but also conferring new federal court jurisdiction over adjudication of penalties assessed under the bill, an amendment prohibiting implementation of the bill if

it results in a violation by the United States of existing international agreements and conferring additional federal court jurisdiction to resolve conflicts under those agreements was held germane as relating to a subject (the relationship of the bill to other law) already comprehensively contained in the bill. 98-1, Nov. 2, 1983, p .....

## F. PROCEDURAL MATTERS

### § 34. Generally; Points of Order and Debate Thereon

§ 34.2 In the Senate, questions of germaneness of amendments to general appropriation bills are submitted to the Senate without debate under Rule XVI, and the Chair does not rule on the question. 97-2, Mar. 31, 1982, pp 6166 et seq.

### § 36. Waiver of Points of Order; Effect on Germaneness Requirement

§ 36.13 First instance of special order reported from Committee on Rules, prior to consideration of a conference report, waiving points of order against nongermane House amendments proposed in a joint statement of the managers to be offered to certain numbered Senate amendments reported from conference in disagreement. 98-1, July 28, 1983, p .....

### § 37. Refusal by Chair to Rule; Anticipatory and Hypothetical Rulings

§ 37.1 99-1, Dec. 12, 1985, p ....., wherein the Chair declined to render anticipatory rulings on the germaneness of an amendment not yet offered.

## Chapter 29

## Consideration and Debate

**A. INTRODUCTORY; INITIATING  
CONSIDERATION AND DEBATE****§ 1. Methods of Initiating Consideration**

§ 1.5 By unanimous consent, the House may permit the consideration of a bill not privileged under the rules, but the Speaker may object to such consideration by refusing recognition to make the unanimous-consent request. 97-1, July 17, 1981, p 16315.

§ 1.9 By unanimous consent, the House permitted consideration in the House on any subsequent day of a bill to be introduced by the Chairman of the Appropriations Committee, waiving all points of order against consideration of the bill, debatable for one hour equally divided, the previous question considered as ordered to final passage without intervening motion (precluding amendment and motion to recommit). 97-2, June 23, 1982, p 14989.

§ 1.10 By unanimous consent, the House discharged the Committee on Appropriations from consideration of a joint resolution continuing appropriations and waived all points of order against its consideration in the House, debate to be controlled by the chairman and ranking minority member of that committee, and ordering the previous question without intervening motion [thereby precluding a motion to recommit]. 99-1, Dec. 12, 1985, p ..... For a unanimous-consent request making in order the consideration in the House of a joint resolution making continuing appropriations reported from the Committee on Appropriations, with one amendment in

order to change the termination date, see 97-2, Sept. 21, 1982, p 24346.

§ 1.11 By unanimous consent, the House discharged the Committee of the Whole from further consideration of a bill being read for amendment under a special order, and agreed that certain amendments be considered as agreed to, and that the previous question be considered as ordered on the bill to final passage. 98-1, Nov. 18, 1983, p .....

§ 1.12 By unanimous consent, the House agreed to consider on the subsequent day or any day thereafter a bill reported from the Committee on Ways and Means extending the public debt limit, waiving all points of order against the bill and committee amendment thereto (containing appropriations), ordering the previous question on the bill and committee amendment to final passage without intervening motion except one motion to recommit. 98-2, June 27, 1984, p ..... *Note:* This unanimous-consent request had the same effect as a "closed rule" from the Committee on Rules, avoided the need for a Rules Committee report, and avoided the need to consider the bill in the Committee of the Whole.

**§ 2. Calling Up Special "Rules" or Resolutions**

§ 2.4 Until the 100th Congress, no notice was required for a member of the Committee on Rules to call up a special order not called up by the Member making the report within seven legislative days of the filing of the report, under clause 4(c) of Rule XI. 99-2, Oct. 1, 1986, p ..... In this instance, a minority member of the Committee on Rules called up a special order reported but not called up



within a seven-legislative-day period under clause 4(c) of Rule XI. In the 100th Congress, clause 4c was amended to require one day's notice before calling up a report under this clause (100-1, Jan. 6, 1987, p .....).

§ 2.5 By unanimous consent, debate in the House on a special order may be extended beyond one hour. 97-2, Dec. 20, 1982, p .....

§ 2.8 It is customary that special orders reported from the Committee on Rules be read in full by the Clerk when called up for consideration, and the Speaker may decline to entertain unanimous-consent requests to dispense with the reading so that Members can become more familiar with the procedures to be followed. 98-1, Aug. 4, 1983, p .....

### § 3. Withdrawal From Consideration

§ 3.4 A resolution being considered in the House by unanimous consent may be withdrawn by the Member calling it up at any time prior to action thereon; unanimous consent for withdrawal is not required where the Speaker has put the question of adoption to a voice vote without the ordering of the previous question, and the yeas and nays have not been ordered. (See 5 Hinds § 5349.) 99-1, Feb. 26, 1985, p 3501 [H. Res. 78]. *Note:* Had the previous question been ordered prior to the vote on adoption, unanimous consent would have been required to withdraw the resolution (5 Hinds §§ 5355, 5489).

## B. RECOGNITION

### § 4. In General; Power and Discretion of Chair

§ 4.1 In order to obtain recognition to offer an amendment, a Member must not only be standing but must also actively seek recogni-

tion by addressing the Chair at the appropriate time. 98-1, Oct. 26, 1983, p .....

§ 4.4 While alternation of recognition between the majority and minority members controlling debate in the House or continued recognition of that Member having the most time remaining are two customary factors governing recognition by the Chair, neither variable is binding on the Chair, who may exercise discretion in conferring recognition where control has been equally divided. In such cases, the Chair may entertain a motion for the previous question by the manager of the measure if neither side seeks to yield further time. 98-1, June 23, 1983, p .....

§ 4.12 In the precedent of August 27, 1980, cited in the bound volume, the Speaker had declined to recognize a Member for a one-minute speech who desired to use a toy duck as a display in the well to symbolize a lame-duck session, a display which the Speaker believed would be demeaning to the debate—especially since it was being televised. This was not a question of a Member objecting to the use of a display which the House by vote would need to permit. Rather, the Speaker may deny recognition or continued recognition when an improper display is utilized. In a related instance in 1983, the Speaker, pursuant to his authority and responsibility to preserve decorum in debate (clause 2 of Rule I), informally requested a Member not to wear a mask in debate. 98-1, Oct. 6, 1983, p .....

§ 4.13 By unanimous consent, the House may permit the consideration of a bill not privileged under the rules, but the Speaker may object to such consideration by refusing recognition to make the unanimous-consent request. 97-1, July 17, 1981, p 16315.



## § 5. Order of Recognition; Priorities in Recognition

§ 5.1 In recognizing Members to move to strike the last word under the five-minute rule, the Chair attempts to alternate between majority and minority members, but the Chair has no knowledge whether specific Members oppose or support the pending proposition and therefore cannot strictly alternate between both sides of the question. 98-2, June 7, 1984, p .....

§ 5.2 *Delete and Insert:* While the Chair endeavors to alternate recognition for the purpose of offering amendments between majority and minority members, members of the committee reporting a pending bill are entitled to prior recognition over noncommittee members, and this is so regardless of their party affiliation. 98-1, May 4, 1983, p ..... Thus, the Chair may accord prior recognition to minority members of the reporting committee to offer amendments over majority noncommittee members. But the Chair will alternate between parties if majority committee members seek recognition for the same purpose. 93-2, July 22, 1974, pp 24454, 24457.

§ 5.6 *Delete:* For a comprehensive treatment of the practice regarding recognition to open and close debate, see §§ 5A and 5B, below.

## § 5A. Recognition to Close Debate on Bills and Resolutions [New]

§ 5A.1 The House rules provide that the Member reporting a measure from a committee is entitled to open and close general debate on that measure. Rule XIV clause 3. And although a House rule precludes a Member from speaking twice on the same question, that rule makes an exception for the "mover, proposer, or introducer" of the pending matter; that Member is permitted to speak in reply after other Members choosing to speak have spoken. Rule XIV clause 6.

§ 5A.2 Under the rules, and under the precedents of the House, the manager of a bill for the reporting committee who is in control of the time is entitled to close general debate, and the minority member controlling one-half of the time must consume it or yield it back prior to the closing of debate. 94-2, Mar. 2, 1976, p 4979; 99-2, May 13, 1986, p ..... The manager of the bill for purposes of closing debate may be the chairman of the reporting committee or a designated majority member of that committee. Thus, under Rule XIV clause 3, the chairman of the committee reporting and calling up a measure and in control of the time has the right to close debate thereon. 99-1, Mar. 26, 1985, p 6283. In one instance, the Chair announced that general debate would be closed by the more senior majority member of the committee who controlled half of the debate time, despite his opposition to the bill. 99-1, Oct. 10, 1985, p 27098. And where the Member originally having the floor had yielded all his time to other Members, the highest ranking majority member of the committee with jurisdiction managing time on the question of overriding a Presidential veto was entitled to close debate on the question regardless of his position on the question.

§ 5A.3 Normally, the manager of a bill in control of the time, and not its proponent, is entitled to close general debate. 99-1, Mar. 26, 1985, p 6283. But where existing law provides that general debate in the Committee of the Whole on a joint resolution shall be equally divided and controlled by proponents and opponents, a proponent has the right to open and close general debate. 99-1, Apr. 23, 1985, p 8964. Moreover, a proponent of an unsponsored and unrefereed joint resolution made in order by a special order of business may be recognized to open and close general debate, there being no "manager" of the pending resolution. 99-2, Apr. 16, 1986, p ..... And where a law constituting a rule of

the House made in order a motion by any Member that the House resolve into the Committee of the Whole to consider a specified joint resolution reported from four committees, the chairman of one of the adversely reporting committees was recognized by the Speaker to move that consideration, but the Minority Leader, as original sponsor and as proponent of the joint resolution, was recognized in Committee of the Whole to open and close general debate, which was equally controlled by a proponent and an opponent. 99-2, Mar. 19, 1986, p .....

### § 5B. Recognition to Close Debate on Amendments [New]

§ 5B.1 The manager of the bill, or a member of the committee reporting a bill who supports the committee position and who has been recognized to control the time in opposition to the amendment, has the right to defend the reported bill against amendments and therefore to close the debate thereon. 99-1, Oct. 7, 1985, p 26433; 99-2, Aug. 14, 1986, p .....

That Member is recognized to close such debate whether debate is proceeding under the five-minute rule or under a special procedure where debate has been limited and divided between the proponent of the amendment and a Member opposed thereto. 98-2, Apr. 4, 1984, p .....

Thus, the manager from the committee reporting a bill has the right to close debate on an amendment under the five-minute rule, and not the sponsor of the amendment. 97-2, July 29, 1982, p 18582.

Similarly, where debate time on an amendment has been limited and divided, the right to recognition to close debate on the amendment in Committee of the Whole belongs to the manager of the bill from the reporting committee and not to the proponent of the amendment. 97-2, July 21, 1982, p 17363; 97-2, Sept. 16, 1982, p 23975; 98-2, May 17, 1984, p .....

Where time has been limited and equally divided between proponents of an amendment and the committee reporting the

bill, the chairman of the committee may be recognized to close debate on the amendment. 97-1, July 16, 1981, p 16043.

Where a special rule limits debate on designated amendments and allocates time between the proponent and an opponent, the manager of the bill will be recognized to control debate in opposition to the amendment if he qualifies as opposed. 97-2, Dec. 1, 1982, p 28235.

In such instances, the manager of the bill recognized to control the time on behalf of the committee in opposition to the amendment has the right to close the debate on the amendment. 97-1, June 18, 1981, p 12977; 98-2, June 29, 1984, p .....

In one instance, where debate time had been allocated among several Members from the reporting committee, the senior majority manager of the committee was recognized to close debate on amendments opposed by the committee. 99-2, Aug. 11, 1986, p .....

§ 5B.2 The manager of the bill has the right to close debate on an amendment thereto although he may also be the proponent of a pending amendment to the amendment. 98-1, Mar. 16, 1983, p .....

The proponent of an amendment may be recognized to control the time in opposition to a substitute offered therefor, but a member of the committee reporting the bill has priority of recognition to control such time. 98-1, May 4, 1983, p .....

§ 5B.3 While the manager of a bill, and not the proponent of an amendment thereto, normally has the right to close debate on the amendment, the proponent of an amendment which represents the reporting committee position, and which is not opposed by the manager of the bill, has the right to close debate thereon. 99-2, Aug. 5, 1986, p .....

And the proponent of an amendment which represents the reporting committee position, who is also the opponent of an amendment to his amendment, has the right to close debate on the amendment to his amendment. 99-2, Aug. 5, 1986, p .....

On the other hand, where debate



has been limited on an amendment in the Committee of the Whole and control allocated between a proponent and an opponent who represents the committee majority reporting the bill, the Member controlling the time in opposition has the right to close debate. 99-1, June 5, 1985, p 14302; 99-1, July 10, 1985, p 18496; 99-1, Oct. 24, 1985, p 28824.

§ 5B.4 While the member of the reporting committee controlling debate in opposition to an amendment, if opposed by the committee, has the right to close debate thereon, the proponent of an amendment has the right to close debate if the committee manager does not oppose the amendment or substitute and where the committee has taken no position on the amendment. 99-2, Aug. 15, 1986, p .....

§ 5B.5 While ordinarily the manager of a bill and not the proponent of an amendment has the right to close debate on an amendment on which debate has been limited and allocated under the five-minute rule in the Committee of the Whole, the proponent of an amendment may close, pursuant to clause 6, Rule XIV, where the manager of the bill or his designee is not controlling time in opposition. 99-1, June 12, 1985, p 15432. Recognition of a proponent of an amendment may also be in order where an unreported bill is being considered pursuant to a special order dividing the time for debate on an amendment between a proponent and an opponent, there being no committee manager. In one instance, where an unreported joint resolution was being considered under a special "modified closed" rule in the Committee of the Whole permitting no general debate and the consideration of only two amendments in the nature of a substitute with debate thereon divided between a proponent and an opponent, the proponents of the amendments were permitted to open and close debate pursuant to clause 6, Rule XIV, since there was no "manager" of the joint resolution. 99-1, Apr. 24, 1985, pp 9206, 9228 et seq.

## C. CONTROL AND DISTRIBUTION OF TIME FOR DEBATE

### § 6. In General

§ 6.3 While normally the "hour" rule prohibits a Member controlling the floor in general debate from consuming more than one hour himself, a statutory provision constituting a House rule which specifically allocates larger amounts of time may permit the Member in charge to consume more than one hour, but not to yield himself more than one hour at a time. 97-1, Apr. 30, 1981, p 8016.

### § 7. Effect of Special "Rule" or Resolution

§ 7.1 Special orders are also used by the House to limit and/or allocate the amount of time for consideration of amendments in the Committee of the Whole under the five-minute rule; upon the expiration of that time the question is put on the pending amendment(s) and further amendments may not be offered. The Chairman may not recognize for a unanimous-consent request to extend the limitation for consideration of amendments beyond that set by the House. 99-2, Apr. 10, 1986, p .....

§ 7.3 Where a special rule divided control of debate among a primary reporting committee and six sequentially reporting committees in a designated order, the Chair allocated time between the chairman and ranking minority member of each committee in the order listed if and when present on the floor, and permitted only the primary committee to reserve a portion of time to close general debate. 97-2, June 17, 1982, p 13991. Where general debate in the Committee of the Whole had been divided among five reporting committees pursuant to a special order adopted by the House, the Chairman permitted the "primary" committees to reserve a portion of

their time to conclude debate and required the "sequential committees" to utilize their time prior thereto. 99-1, Dec. 5, 1985, p .....

§ 7.4 Where general debate in the Committee of the Whole is equally divided among the chairmen and ranking minority members of two committees, the Chair may in his discretion recognize one committee to utilize all its time before recognizing members from the other committee. 99-1, May 21, 1985, pp 12745, 12757. Where a special rule provides separate control of general debate time among the chairmen and ranking minority members of two committees, but does not specify the order of recognition, the Chair may in his discretion either alternate recognition among the four Members or permit the primary committee to first utilize most of its time and then permit the manager of the bill to close general debate after the sequential committee uses its time. 97-2, Dec. 10, 1982, p .....

Where a special order allots general debate time to the chairmen and ranking minority members of more than one committee in the Committee of the Whole, a ranking minority member controlling time may reserve the balance of his time to let other Members controlling time proceed in debate, and his remaining time is not transferred to the allotment of another committee. 98-2, Sept. 19, 1984, p .....

§ 7.8 Where a special order provided for the automatic consideration of a joint resolution (proposing a constitutional amendment) which had not been reported from committee, in Committee of the Whole, and provided for general debate to be divided between a Member in favor of the joint resolution and a Member opposed, the Chair recognized the ranking minority member of the committee with jurisdiction, the Committee on the Judiciary, to control the time in favor of the joint resolution, and recognized the chairman of that committee to control the time in opposition. 97-2, Oct. 1, 1982, pp 27178, 27179.

§ 7.9 Where a special order adopted by the House provides that a specified amount of time be equally divided and controlled on an amendment in the Committee of the Whole between the proponent of the amendment and a Member opposed thereto, only one Member may be recognized to control the time in opposition, though he may in turn yield blocks of time to other Members. 99-2, Aug. 11, 1986, p .....

Pro forma amendments (or another Member speaking as an additional proponent to gain additional debate time) are not in order. 99-2, Aug. 14, 1986, p .....

Debate time on the amendment having been divided between the proponent and an opponent, the Chair may in his discretion recognize the manager of the bill if opposed and there is no requirement for recognition of the minority party. 99-2, June 18, 1986, p .....

The Chair has discretion in determining which Member to control the time in opposition, pursuant to the special order, and may recognize the majority chairman of the subcommittee with jurisdiction over the subject matter of an amendment which has been offered by a member of the minority, over the ranking minority member of the full committee managing the bill, to control the time in opposition under the principle of alternation of recognition. 98-2, Sept. 25, 1984, p .....

Normally, however, where a special order divides the debate time on an amendment between its proponent and a Member opposed, the Chairman of the Committee of the Whole recognizes the chairman of the committee managing the bill if he qualifies as opposed to the amendment. 97-2, Aug. 5, 1982, p 19653. In such instances, the chairman of the committee managing the bill is recognized to control the time in opposition if he states he is opposed, and the Chair cannot question his qualifications to speak in opposition at a later time. 98-1, May 4, 1983, p .....

§ 7.10 Where a special order adopted by the House provides that an amendment and any

amendment thereto be separately debatable for a number of minutes of debate, equally divided and controlled by the respective proponents and opponents, time consumed in debating any perfecting amendment is not deducted from debate on the primary amendment. 99-2, Aug. 11, 1986, p .....

§ 7.11 Where a special order adopted by the House provides for a specified amount of time on an amendment in the Committee of the Whole, and for a separate amount of time on any amendment thereto, equally divided and controlled by the proponent and an opponent, the Committee of the Whole may by unanimous consent allow the time for the proponents on both to be combined and controlled by one of the proponents, while both the amendment and the amendment thereto are pending. 99-2, Aug. 11, 1986, p .....

§ 7.12 By unanimous consent in the Committee of the Whole, separate specified amounts of time which have been allocated in the House by special order for debate on an amendment, and on a substitute thereto, may be consolidated to run concurrently, but where the special order has provided that one-half of the time on both such amendments be allocated to opponents thereto, a Member who qualifies as being opposed has the right to control the consolidated time in opposition (unless otherwise specified and clearly understood under the unanimous-consent request). 99-2, Aug. 11, 1986, p .....

§ 7.13 Where debate has been separately limited on a pending amendment and on an amendment thereto, and the Member controlling time in opposition to the original amendment has reserved a portion pending debate on the "second degree" amendment, he may either utilize his remaining time before the Chair puts the question on the amendment to the amendment, or continue to reserve it until after that vote. 99-2, Sept. 11, 1986, p .....

§ 7.14 The House having adopted a special order providing for the consideration in Com-

mittee of the Whole of a substitute for a designated amendment, but also providing that "before the consideration of any amendments to said amendment, it shall be in order to debate said amendment for not to exceed one hour," debate on the amendment must conclude before the substitute may be offered (unless otherwise provided by unanimous consent). 99-2, Aug. 15, 1986, p .....

## § 8. Yielding Time—For Debate

§ 8.1 98-2, Aug. 2, 1984, p .....

A Member may not yield for purposes of debate where he has risen merely to reserve a point of order. 99-1, Oct. 1, 1985, p 25419.

§ 8.2 Where a special order adopted by the House divides control of general debate in Committee of the Whole between the chairman and ranking minority member of the committee reporting the bill, time yielded to third Members must be utilized or yielded back and may only be reserved for allocation by that third Member by unanimous consent. 97-2, May 20, 1982, p 10766. Debate time yielded back by a Member to whom time was yielded under the hour rule reverts to the Member in control of the hour. 99-1, Mar. 4, 1985, pp 4280-83.

§ 8.3 Unanimous consent is required to permit a Member, to whom time has been yielded by the Member having the floor and controlling one hour of debate in the House, to yield blocks of time to other Members. 99-2, Aug. 6, 1986, p .....

A similar rule is followed in the Committee of the Whole. A Member in control of time for general debate may yield a block of time (up to one hour) to another Member, but that Member in turn may yield a block of time to a third Member without remaining on his feet only by unanimous consent. 97-1, May 4, 1981, p 8331. During one such debate, by unanimous consent, the chairman of a committee reporting a bill who controlled half the general debate



time in the Committee of the Whole was permitted to yield his remaining time equally to two other majority members of the committee, in order that they might in turn yield blocks of time. 99-1, Oct. 10, 1985, pp 27068, 27069. And where a law constituting a rule of the House provides that general debate in the Committee of the Whole on a measure be equally divided between a proponent and an opponent, unanimous consent is required for either of them to yield blocks of time to other Members, to be in turn yielded by them. In this instance, the Chairman of the Committee on Appropriations, recognized to control the time for general debate in opposition to a joint resolution, considered pursuant to a statute providing that half of the time be controlled by a Member favoring the resolution and one half of the time be controlled by a Member opposing the resolution, yielded one hour each to the chairmen of the three other committees reporting the resolution, and obtained unanimous consent that those Members be permitted to yield time. 99-2, Mar. 19, 1986, p .....

§ 8.6 Where all time for general debate in Committee of the Whole is equally divided and controlled by the chairman and ranking minority member of the committee reporting a bill, a Member to whom a block of time is yielded may not in turn yield a portion of that time to a third Member but must (absent unanimous consent) remain on his feet. 97-1, June 25, 1981, p 14093.

§ 8.7 Where debate on an amendment has been limited and equally divided between the proponent and a Member opposed, and the Chair has recognized the *only* Member seeking recognition in opposition to the amendment, no objection lies against that Member subsequently yielding back all the time in opposition. 98-1, May 4, 1983, p ..... *Note:* Had another Member also been seeking to control time in opposition at the time the first Member was recognized and yielded back, the Chair would have allocated the time to

that Member so that it could have been utilized.

§ 8.8 There is no rule of the House requiring a Member having the floor in debate to yield to another Member to whom he has referred during debate. 98-2, Aug. 2, 1984, p ..... Where a Member interrupts another Member during debate without being yielded to and without making a point of order, the time consumed by his remarks will not be charged against the debate time of the Member controlling the floor and his remarks will not be printed in the Record. 99-1, Feb. 7, 1985, p 2229.

## § 9. — For Amendment

§ 9.1 A Member to whom time is yielded for *debate only* in the House on a resolution reported from the Committee on Rules and who seeks unanimous consent to offer an amendment is not entitled to have the amendment read by the Clerk where another Member objects to the offering of the amendment. 99-1, May 14, 1985, p 11713.

§ 9.5 A Member offering a pro forma amendment under the five-minute rule may not yield to another Member during that time to offer an amendment. 97-2, July 29, 1982, p 18593.

## § 10. Relevancy in Debate

§ 10.4 Debate under the five-minute rule in Committee of the Whole must be confined to the pending amendment when that point of order is raised, even if a Member is attempting to respond to previous extraneous remarks in debate against which no point of order was raised. 97-2, Sept. 23, 1982, p 24968.

## § 11. Interruptions; Parliamentary Inquiries

§ 11.1 A Member wishing to interrupt another in debate should address the Chair for permission of the Member speaking who may exercise his own discretion as to whether or not to yield. The Chair will take the initiative in preserving order when a Member declining to yield in debate continues to be interrupted by another Member, and may order that the interrupting Member's remarks not appear in the Record. 98-2, July 26, 1984, p .....

§ 11.2 A Member may not interrupt another Member in debate by a parliamentary inquiry unless the Member having the floor yields for that purpose. 99-1, Feb. 25, 1985, pp 3345-47. When the Chair entertains a parliamentary inquiry before the Member who has called up the pending measure in the House has been recognized for debate, the time consumed by the inquiry does not come out of the time to be allocated to the manager of the measure. 99-2, Oct. 8, 1986, p .....

§ 11.3 A question of personal privilege cannot take another Member from the floor. 98-1, Sept. 29, 1983, p .....

## § 12. Losing Control of the Floor

§ 12.4 A Member controlling time for general debate in Committee of the Whole loses the right to consume such time only if it is yielded back, and not pursuant to any informal agreement on management of time that may be reached by the managers of the bill. 97-2, Dec. 16, 1982, p .....

## D. DISORDER IN DEBATE; DECORUM

### § 13. In General

§ 13.1 Remarks in the House, although critical of the Speaker, should be directed to "Mr. Speaker," even if he is not occupying the Chair. 98-1, Nov. 1, 1983, p .....

§ 13.3 Remarks in debate must be addressed to the Chair only, and it is not in order to address remarks to television viewers (98-1, Sept. 29, 1983, p .....; 99-2, June 5, 1986, p .....), including those who may be watching by way of closed circuit television. 99-1, Oct. 9, 1985, p 26961. The Chair enforces the rule on his or her own initiative. 99-2, Feb. 25, 1986, p ..... Members in debate may not address remarks to "our viewing audience." 98-2, Aug. 2, 1984, p .....

§ 13.4 98-2, Mar. 27, 1984, p ..... Invoking clause 8, Rule XIV, the Speaker cautioned a newly sworn Member not to introduce his family sitting in the gallery. 99-2, July 29, 1986, p .....

§ 13.5 The proper form of reference to another Member is to the "gentleman (or gentlewoman) from (state)", and not any other appellation or characterization. 98-2, Oct. 2, 1984, p .....; 99-1, Mar. 7, 1985, p 5028.

§ 13.7 The Speaker announced, during a vote by electronic device, that Members were not permitted under the traditions of the House to wear overcoats on the House floor. 97-1, Dec. 16, 1981, p 31847.

§ 13.8 Clause 1 of Rule XIV, requiring all Members engaging in debate to "avoid personality" applies to the Speaker when he takes the floor in debate. 98-2, May 15, 1984, p .....

§ 13.9 It is not in order in debate to personally disparage or demean the President of the

United States or his office. 99-2, Aug. 12, 1986, p ..... The rules do not permit the use of language that is personally offensive (5 Hinds § 5094), such as calling the President a "liar". 99-1, June 26, 1985, p 17394. See also 8 Cannon § 2498. Members are permitted wider latitude in referring to the President than to other Members; debate in the House may refer to the motives of the President but personal criticism, innuendo, ridicule, or terms of opprobrium are not in order. 8 Cannon § 2497. Under clause 5, Rule XIV, a Member may be called to order for alleged unparliamentary references to the President by a demand that the words be taken down in the Committee of the Whole for a ruling by the Speaker under clause 4 of that rule; but the Chairman of the Committee of the Whole may himself rule on the point of order by admonishing the offending Member to proceed in order by adhering to the proper scope of references to the President, where the offending words are not so unparliamentary as to require the Speaker to rule and the House to impose sanctions by motion. 99-2, Aug. 12, 1986, p ..... In one instance, the Minority Leader took the floor to criticize the Speaker for making certain remarks in his daily press conference concerning the President. 98-2, July 25, 1984, p ..... *Note:* While there are precedents that it is a breach of order *in debate* to refer to the President improperly (8 Cannon §§ 2497, 2498), none has been extended to statements made outside the Chamber.

§ 13.10 The Speaker, exercising his authority under clause 2, Rule I to preserve order and decorum, advised Members that the wearing of badges on the floor was inappropriate as a breach of decorum as defined in clause 1, Rule XIV. 99-2, Apr. 15, 1986, p ..... *Note:* In recent years, Members occasionally have worn badges of various sorts on the floor to convey political messages to their colleagues and to the television audience. Under the definition of decorum and debate in clause 1,

Rule XIV, a Member must first seek recognition and then speak his message, or use exhibits as provided in Rule XXX subject to approval of the House if objection is made.

§ 13.11 The Chairman of the Committee of the Whole sustained a point of order that Members were smoking on the floor in violation of clause 7 of Rule XIV. 99-2, Aug. 14, 1986, p .....

## § 14. References to Senate or Senators

§ 14.1 *Delete and Insert:* The principles of comity in debate, enunciated in *Jefferson's Manual* (see *Manual* § 371), have been applied in the House since its formation. Jefferson stated: "It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there." In the 100th Congress, the House amended its Rule XIV to specify that "Debate [in the House] may include references to actions taken by the Senate or by committees thereof which are a matter of public record, and to the pendency or sponsorship in the Senate of bills, resolutions and amendments, but may not include other references to individual Members of the Senate, expressions of opinion concerning Senate action, or quotations from Senate proceedings."

The Chair takes the initiative in enforcing this rule (see *Manual* § 374), 97-1, Oct. 29, 1981, p 26051; 99-1, Feb. 27, 1985, p 3850.

References in debate to a Member of the Senate or to probable actions taken by the Senate may be ruled out on a point of order. 92-2, Aug. 17, 1972, p 28917 [S.J. Res. 260], where a point of order was raised after a Member declared: "A member of the other body may object, but I would say that he will then have on his shoulders the denial of guaranteed student loans to all the students of the country. . . ."



It is a breach of order in debate to notice what has been said in debate in the Senate, or to refer to the words of particular Senators. 97-1, Oct. 21, 1981, pp 24748, 24753; 97-2, June 9, 1982, pp 13030, 13060. It is traditional in debate to refer to the Senate as "the other body", and *Jefferson's Manual* does not totally proscribe use of the word "Senate" during debate if merely a reference to that body's existence. While it is not in order in debate to refer to debate in the Senate, it is in order to state whether or not the Senate has acted on House-passed legislation; and in making an appropriate reference to the other body, the term "Senate" may be used and is not per se a violation of the rule of comity. 98-2, Oct. 4, 1984, p ..... On the other hand, statements in debate speculating as to the intent of the Senate or of individual Senators as to action in that body on legislation pending in the House remain a violation of the rule of comity. 98-2, Oct. 11, 1984, p ..... It is a breach of order in debate to refer to the motives of the Senate or Senators in passing certain legislation; nor is it in order to read from the *Congressional Record* specific actions taken in the Senate on legislative issues. 99-1, Oct. 17, 1985, p 27772. While a Member in debate may refer to the pendency of a House-passed bill in the Senate, it is a breach of order in debate to refer to a House bill as "languishing" in the Senate. 99-2, July 31, 1986, p .....

§ 14.2 *Delete and Insert*: References to individual Members of the Senate (98-2, Oct. 2, 1984, p .....), even in a congratulatory way (99-2, Aug. 5, 1986, p .....), or to actions which named Members of the Senate, or Senators designated by position, might take, are prohibited (98-2, Oct. 11, 1984, p .....). See also 99-2, Mar. 3, 1986, p ..... It is not in order to refer critically to Members of the Senate or to the actions of individual Senators. 98-2, May 8, 1984, p ..... In 1985, the Chair admonished a Member during debate not to refer to a Senator in a critical manner

although not identified by name. 99-1, Dec. 18, 1985, p ..... Even a reference to another person's criticism of a Senator is a violation of the rule. 98-1, Aug. 4, 1983, p ..... It is a violation of the rule of comity to refer in debate to specific votes on issues in the Senate, or how particular Members of the Senate voted, and the Chair calls Members to order on his own initiative for such references to the Senate. 97-1, July 29, 1981, p 18249; 98-2, Apr. 12, 1984, p .....; 98-2, July 31, 1984, p .....; 99-2, Mar. 13, 1986, p .....

In one case, the personal views of a Senator, not uttered in the Senate, were allowed to be quoted in the House (5 Hinds § 5112), but the weight of recent precedent and the purposes of the rule prohibit references to speeches or statements of Senators occurring outside the Senate Chamber. 8 Cannon § 2515; *Manual* § 371. With respect to references to Members of the Senate acting in another capacity, references to former Members of the House who are presently Senators are only permissible if they merely address prior House service and are not implicitly critical of Senatorial service. 98-2, May 8, 1984, p ..... A Member of the House has been permitted to refer to a speech made in the Senate by one no longer a Member of that body (5 Hinds § 5112). References to Members of the Senate in their capacity as candidates for the Presidency or other office are not prohibited, but references attacking the character or integrity of a Senator even in that context are not in order (96-1, Oct. 30, 1979, p 30150). *Manual* § 371.

§ 14.3 *Delete and Insert*: On one occasion, the Speaker entertained a unanimous-consent request that a Member be permitted to refer in debate to Senate proceedings (to quote a statement by the Senate Majority Leader as to probable Senate action on the measure then pending in the House), but the Speaker first ascertained in what manner the reference would be made, in order to assure that re-

marks critical of the Senate, its Members, or proceedings would not be made (96-2, June 4, 1980, p 13212). The Chair will not entertain such a request where the references would necessarily imply criticism of the Senate, such as to respond to remarks in the Senate which were critical of Members of the House (8 Cannon § 2519). *Manual* § 371.

§ 14.4 *Delete and Insert*: Even prior to the 100th Congress, it was permissible to refer to proceedings in the other House, provided the reference did not contravene the principles stated by Jefferson. A Member must be permitted to refer to the existence of the Senate and its functions in a general and neutral way. For example, a Member may oppose a *sine die* adjournment resolution on the grounds that Congress should stay in session to complete action on specified legislation then pending in the Senate (5 Hinds § 5115). It is appropriate to state whether or not the Senate has acted on House-passed legislation as long as criticism is neither stated nor implied (98-2, Oct. 4, 1984, p .....). If references to the Senate are appropriate, the Member delivering them is not required to use the term "the other body," and the use of the term "Senate" is not a per se violation of the rule of comity (98-2, Oct. 4, 1984, p .....). It is in order in debate, while discussing a question involving conference committee procedure, to state what actually occurred in a conference committee session, without referring to or criticizing a named Member of the Senate (74-1, July 29, 1935, p 12011). *Manual* § 371.

§ 14.5 *Delete and Insert*: In 1985, a Member was called to order for referring in debate to remarks made by a Senator during a Senate committee hearing. 99-1, May 16, 1985, p 12229. In 1986, a Member, upon being cautioned by the Chair not to refer to a Senator in debate, obtained unanimous consent to refer to correspondence between the Senator and a federal official. 99-2, June 25, 1986, p .....

§ 14.8 The Chair, as required by § 374 of *Jefferson's Manual*, takes the initiative to prevent debate in the House which may tend to reflect improperly upon the Senate or its Members. 97-1, Oct. 28, 1981, p 25681. See also 99-2, Sept. 30, 1986, p ....., where a Member had referred to Senators as "feeding at the trough." Although the Senate does not strictly incorporate *Jefferson's Manual* as a rule and is not bound by the prohibitions against reference to Members of the House, the Speaker strictly enforces the House rule on his own initiative and may deny an offending Member further recognition. 97-2, June 16, 1982, p 13843. The Chair calls Members to order on his own initiative for references in debate to actions of the Senate; he may remind all Members not to make such references (98-2, Oct. 5, 1984, p .....), and may intervene to request a Member to prevent such references from appearing in the Record. 97-1, July 16, 1981, p 16004; 98-2, May 8, 1984, p ..... *Note*: While the Speaker on June 16, 1982, asserted that he could deny further recognition to Members violating the prohibition, it is the House and not the Speaker which controls the Record, and the Speaker must rely on the good faith of Members to heed his admonition to delete the offending material—perhaps as a condition for continued recognition.

§ 14.9 In response to a parliamentary inquiry, it was indicated that it is a breach of order under *Jefferson's Manual* (§ 371) for a Member to refer in debate to confirmation proceedings in the Senate by advocating that that body take a certain action relative to a Presidential nominee. 98-2, Feb. 7, 1984, p ..... *Note*: In this instance, the Chair should have taken the initiative to call the Member to order for attempting to influence the Senate in debate. However, a mere reference to the fact of confirmation proceedings in the other body, absent characterizations of those proceedings, would not be out of order.

§ 14.10 References in debate to a former Member of the House who is presently a Member of the Senate are only permissible if they merely address prior House service and are not implicitly critical of him as a Senator. 98-2, May 8, 1984, p .....

§ 14.11 The Chair will not respond to hypothetical questions as to the propriety of possible characterizations of Senate actions prior to their use in debate. 99-1, Oct. 24, 1985, p 28819.

## § 16. Criticism of House or Member

§ 16.1 Clause 1 of Rule XIV and *Jefferson's Manual* (§ 361) prohibit a Member from engaging in personalities in debate and specifically require references to another Member only "by his seat in the House, or who spoke last, or on the other side of the question," and not by name or in the second person. 97-2, July 21, 1982, p 17314. A Member may not characterize another Member as "speaking out of both sides of his mouth," as such words impugn the motives of the other Member. 99-1, Mar. 19, 1985, p 5532.

§ 16.3 It is not in order in debate to refer in a personally critical manner to the political tactics of any Member, including the Speaker. 97-1, June 25, 1981, p 14056. It is not in order in debate to speak disrespectfully of the Chair by charging dishonesty or disregard of the rules. In one instance, however, where a Member had improperly criticized the count of a previous occupant of the Chair and had been generally admonished by the Chair to refrain from improper references in debate, and a point of order against those words was then withdrawn, his subsequent assertion of a personal belief that a sufficient number had been standing to demand a recorded vote was held parliamentary as not necessarily charging the Chair with disregard of the rules, in the context of those words alone. 99-1, July 11, 1985, pp 18545, 18550.

§ 16.4 Pursuant to *Jefferson's Manual* (§ 361), it is not in order during debate to refer to a particular Member of the House in a derogatory fashion, even though that Member is not named, and the Chair will intervene to prevent improper reference where it is evident that a particular Member is being described. 97-1, Oct. 28, 1981, pp 25723, 25725. And it is not in order in debate to refer to an identifiable group of sitting Members as having committed a crime (e.g., "stealing" an election). 99-1, Feb. 27, 1985, p 3899. In one instance, however, words characterizing unnamed Members as taking "potshots" at the Nicaraguan resistance and as lacking judgment were regarded as in order since referring to no specific Members. 99-2, Mar. 18, 1986, p .....

§ 16.5 The Speaker ruled that a statement made in Committee of the Whole that a Member should not "let this element over here who advocates unilateral disarmament to browbeat you into thinking they know more than you do" did not refer to or reflect on a particular Member of the House and was therefore in order, but the Speaker cautioned that the tone or manner of a Member speaking in debate may be such as to be personally offensive to another Member. 98-1, May 26, 1983, p .....

§ 16.6 It is not unparliamentary to describe in debate the effect which a Member's remarks may have, especially where that description includes a disclaimer disavowing any intention to impugn a Member's motives. 98-1, July 28, 1983, p .....

In this instance, a Member's argument that "even though that may not be the intention, I think [certain statements] have the tendency to try to assassinate the character of the person making the statement rather than to effectively assassinate the argument," was held in order.

§ 16.7 It is not unparliamentary in debate to characterize Members as having praised a for-



eign dictator in the past in prior debate. 98-2, Apr. 12, 1984, p ..... *Note:* The remarks did not name a specific Member but would have been in order even if they did.

§ 16.8 The Speaker's opinion expressed in debate that a Member deliberately stood in the well before an empty House and challenged the Americanism of other Members, "and it is the lowest thing that I have ever seen in my 32 years in Congress" was held to constitute an unparliamentary characterization of that Member's motives and actions and was ruled out of order on a demand that the words be taken down. The Speaker's words, uttered in debate on the floor, were challenged (by the Minority Whip) and were ruled out of order by the Speaker pro tempore. 98-2, May 15, 1984, p ..... See also 2 Hinds § 1368, noting that in the Fifth Congress, Speaker Dayton's words were ruled out of order as he participated in debate in Committee of the Whole.

§ 16.9 In response to a parliamentary inquiry during debate on a question of personal privilege (involving derogatory statements to the press by one Member against others), the Speaker pro tempore advised that the term "crybaby" would not be an appropriate phrase to be used in the debate as a reference to a particular Member. 98-2, May 31, 1984, p .....

§ 16.10 Clause 1, Rule XIV, requiring Members to "avoid personality" during debate, prohibits references in debate to newspaper accounts used in support of a Member's personal criticism of a sitting Member in a way which would be unparliamentary if uttered on the floor as the Member's own words. This prohibition does not constitute "censorship" of the press by the House, but rather is consistent with House rules which preclude debate or insertions in the Record which engage in "personalities." And it has been indicated that a question of the privileges of the House could be raised against the insertion in

the Record of a press account using language personally offensive against a sitting Member, whether uttered by a former Member or anyone else. 99-1, Feb. 25, 1985, pp 3345-47.

§ 16.11 A Member's statement during debate that another Member's demand that words be taken down during a special-order speech was "an unfair stealing of time" was held not to be unparliamentary, as not necessarily implying an illegal action. 99-1, Feb. 27, 1985, pp 3899, 3900. *Note:* Time taken during points of order raised during a special-order speech does not come out of the time of the Member speaking, and so a Member is not deprived of his allotted time.

## § 17. Procedure; Words Taken Down

§ 17.2 A Member whose words are held to be unparliamentary and who is not permitted by the House to proceed in order loses the floor and may not participate in debate on the same day even on time yielded to him by another Member. 99-1, Mar. 19, 1985, p 5533. Where a demand is made that a Member's words be taken down, he may by unanimous consent be allowed to proceed in debate if permission is first granted to modify the words in order to delete the objectionable matter. 98-2, Oct. 2, 1984, p ..... *Note:* Permission for a Member to proceed in debate should not be granted until the words have been ruled on or modified or withdrawn.

§ 17.6 While the Chair will not rule on the propriety of words used in debate and not challenged by a timely demand that they be "taken down," the Chair may caution all Members not to question the integrity or motivation of other Members in debate. 99-1, Apr. 22, 1985, p 8693.

## § 18. — Demands That Words Be Taken Down; Explanations and Interpretations

§ 18.1 A demand in Committee of the Whole that words be taken down is in order only if made in a timely manner; and where debate has intervened, the demand comes too late. 97-1, May 5, 1981, p 8496; 98-2, May 23, 1984, p ..... The Chair's determination as to whether a Member's point of order (that remarks just made in debate impugn another Member's motives) constitutes a demand that those words be "taken down," is not such intervening debate or business as to render the demand untimely. 98-2, Oct. 2, 1984, p ..... If a point of order or demand that words be taken down has not been immediately made relative to words spoken in debate, the Chair is not subsequently *required* to respond to a parliamentary inquiry as to whether the particular words previously used were a breach of order. 99-2, Mar. 13, 1986, p ..... *Note:* Members have on several occasions requested the Chair to take the initiative in ruling Members out of order in debate for alleged profanity or blasphemy. But clearly, the Chair cannot rule on the "blasphemous" nature of remarks, such as "My God . . .," even in response to a point of order. The Chair cannot judge the religious or moral validity of an appeal in debate to a higher authority. Of course, in extreme cases of disorder in debate, the Chair may exercise his authority under clause 2, Rule I "to preserve order and decorum," and under clause 4, Rule XIV "[I]f any Member, in speaking or otherwise, transgress the rules of the House, the Speaker *shall*, or any Member may, call him to order." However, where the words used are not clearly unparliamentary, the Chair should await a point of order from the floor so that he, the Chair, can rule on the propriety of the words in an impartial manner; but if order must be maintained immediately and the words are clearly out of order, the Chair may take the initiative.

§ 18.7 Papers read during debate are subject to a timely demand that words be "taken down" as an unparliamentary reference to other sitting Members, but the demand must be made before subsequent reading intervenes. 99-1, Feb. 25, 1985, pp 3345-47.

## § 19. — Withdrawal and Expungement; Motions to Proceed in Order

§ 19.1 When there is a demand that certain words used in debate be taken down, the words objected to may be withdrawn by unanimous consent requested by the Member using them, but where the utteror does not so request, the Speaker will rule on the propriety of the words. 99-1, Mar. 19, 1985, p 5533. Instance where a Member, by unanimous consent, withdrew a statement in debate that the majority members of the House had "stolen" a seat, pending a demand that those words be taken down. 99-1, Feb. 25, 1985, pp 3345-47.

§ 19.2 Pending a demand that words spoken in debate be taken down and ruled unparliamentary, the Chairman may inquire whether the Member whose remarks are challenged wishes to request unanimous consent to modify his remarks before directing the Clerk to read them. 97-2, Dec. 8, 1982, p 29466.

§ 19.3 Where a Member had made an improper reference to the President during debate, the Chair may request that Member to revise his remarks for the Record. 99-1, June 26, 1985, p 17394.

§ 19.4 Where unparliamentary words used in debate have been stricken from the Record, the offending Member may be permitted to proceed in order by unanimous consent (subject to debate under a reservation of objection) or by nondebatable motion. 99-1, Mar. 19, 1985, pp 5532 et seq.

## E. DURATION OF DEBATE IN THE HOUSE

### § 20. In General; Debate in the House

§ 20.1 The Chair will not entertain a unanimous-consent request for a Member to occupy more than one hour of debate. 98-1, Nov. 4, 1983, p .....

### § 22. Fixing or Closing Time for Debate; Extensions of Time

§ 22.2 Debate in the House under the hour rule may be further limited by unanimous consent. 99-1, Oct. 11, 1985, p 27361. In one instance, by unanimous consent, debate on a resolution declaring a seat vacant in the House was extended to two hours, divided between the proponent and the chairman of the committee task force which had conducted the election recount. 99-1, Apr. 30, 1985, p 9801.

## F. DURATION OF DEBATE IN COMMITTEE OF THE WHOLE

### § 23. In General; Effect of Special "Rule"

§ 23.4 Where only certain amendments are made in order in Committee of the Whole pursuant to a "modified closed" rule, and those amendments are disposed of or are not offered, no further debate under the five-minute rule is in order except by unanimous consent. 97-2, Oct. 1, 1982, pp 27254, 27255.

§ 23.5 Where a special rule prohibited the offering of pro forma amendments for the purpose of debate in Committee of the Whole, the Speaker and Minority Leader were nevertheless permitted, by unanimous consent, to each speak for five minutes near the conclu-

sion of the amendment process in Committee of the Whole. 98-1, May 4, 1983, p .....

### § 24. General Debate

§ 24.1 98-2, Mar. 27, 1984, p ..... Likewise, the Committee of the Whole may not, even by unanimous consent, change the control of general debate specified by the House, such as to allocate a certain amount of time to Members opposing the measure. 99-2, Oct. 9, 1986, p ..... However, in one instance in the Committee of the Whole, general debate which had been allocated only to the primary committee pursuant to a special order adopted by the House was reallocated by unanimous consent to the chairmen and ranking minority members of three committees to which the bill had been sequentially referred, to permit them to yield portions of time. 99-1, Nov. 5, 1985, p 30462.

§ 24.6 Where no member of the committee designated to control time is present at the appropriate time during general debate in the Committee of the Whole, the Chair may presume the time to have been yielded back. 98-2, June 11, 1984, p ..... And where a committee that controls a portion of general debate time is not present on the floor at the appropriate time to use that time for debate and has indicated to the Chair that it does not wish to reserve time, the Chair may consider that time for general debate to have been yielded back. 99-1, Sept. 20, 1985, p 24565.

### § 25. Five-minute Debate

§ 25.1 The House, and not the Committee of the Whole, also controls the extent to which the offering of amendments might be precluded under the five-minute rule. The Committee cannot, even by unanimous consent, prohibit the offering of amendments otherwise in order under the five-minute rule. 98-2, July 31, 1984, p ..... *Note:* While the Committee of the Whole can set time limits on debate on



amendments it has traditionally not been empowered to preclude amendments that are in order under the five-minute rule; the Committee cannot in effect adopt a "modified closed rule" in advance of the offering of amendments to a pending portion of the bill.

§§ 25.3, 25.4 *Delete and Insert*: The proponent of an amendment in Committee of the Whole is entitled to five minutes of debate in favor of the amendment before a perfecting amendment may be offered thereto, and he may not yield to another to offer an amendment. 98-2, May 31, 1984, p ..... Generally, a Member may speak only once for five minutes on a pending amendment, although a point of order under this rule comes too late after that Member has been recognized and has begun to speak. 92-1, June 9, 1971, p 18988. This rule applies to the Member offering the amendment as well as any other Member. However, where there is pending an amendment and a substitute therefor, the Member offering the substitute may debate it for five minutes and subsequently be recognized to speak for or against the original amendment. Moreover, if debate on the pending amendment is limited, the five-minute rule is abrogated and Members who have already spoken on an amendment may be recognized again under the limitation. 91-2, July 28, 1970, p 26027.

## G. LIMITING OR EXTENDING FIVE-MINUTE DEBATE

### § 26. In General; By the House

§ 26.1 Where the House had adopted a special order providing a "modified closed" rule which limited and divided debate on a specified amendment and two amendments thereto, the House by unanimous consent extended time for debate on the original amendment in the Committee of the Whole following dispo-

sition of the two perfecting amendments. 99-1, June 12, 1985, p 15379.

§ 26.2 Where a statute sets a limit of time for general debate on a joint resolution which would be considered in the Committee of the Whole and also permits a motion to further limit debate, the House and not the Committee of the Whole should consider such motion. 99-1, Mar. 27, 1985, pp 6409, 6420.

### § 27. By Motion in Committee of the Whole

§ 27.1 *Delete and Insert*: Debate on an amendment and all amendments thereto pending in the Committee of the Whole may be limited to a time certain by motion. 98-2, July 26, 1984, p ..... It is in order in the Committee to move to limit or close debate under the five-minute rule, with respect to the portion of the text which is pending. 88-2, Feb. 8, 1964, p 2614; 91-2, June 18, 1970, p 20469. Likewise, where the remainder of a bill has been open to amendment at any point by unanimous consent, the Committee of the Whole may, by motion, limit debate on all amendments to the bill and all amendments thereto (except on a specified amendment) to a time certain. 98-1, July 26, 1983, p ..... Clause 6 of Rule XXIII permits the Committee of the Whole by motion to limit debate on the pending portion of a bill (and on all amendments thereto) or just on a pending amendment (and all amendments thereto), but does not permit a motion to limit and allocate separate time for debate on perfecting amendments not yet offered. The Committee of the Whole may, by motion, limit debate on a pending committee amendment in the nature of a substitute (considered as having been read as original text) and on all amendments thereto to a time certain, and may then, by subsequent unanimous consent or motions, separately limit debate on each perfecting amendment after it has been offered. 98-1,

Mar. 16, 1983, p ..... In one instance, by motion in the Committee of the Whole, debate on a pending section, all amendments thereto, and amendments adding new sections on the subject matter of that section, was limited to a time certain. 99-1, Oct. 3, 1985, p 25986.

§ 27.5 Although any Member may move, or request unanimous consent, to limit debate under the five-minute rule in the Committee of the Whole, the manager of the bill has the prior right to recognition for such purpose. 98-1, June 19, 1983, p .....

§ 27.6 Where there is a time limitation on debate on a pending amendment in the nature of a substitute and all amendments thereto, but not on the underlying original text, debate on perfecting amendments to the original text proceeds under the five-minute rule absent another time limitation thereon. 98-1, Apr. 13, 1983, p ..... A limitation of debate under the five-minute rule on a pending amendment and all amendments thereto applies to debate on any substitute for the amendment that might subsequently be offered. 98-1, Apr. 21, 1983, p .....

§ 27.7 Where the text of a joint resolution (all after the resolving clause) is open to amendment at any point, a motion to limit debate thereon and on all amendments thereto to a time certain (1) does not include debate on amendments to the preamble, which has not been read for amendment; (2) does not include debate on an amendment in the nature of a substitute to be offered to the text and preamble at the end of the amendment process pursuant to a special rule; (3) cannot include separate allocations of time on amendments to amendments not yet offered (only by unanimous consent or separate motion when the amendments are pending); (4) would permit the Chair in his discretion to continue under the five-minute rule rather than allocate the lengthy amount of remaining time, with printed amendments guaran-

teed 10 minutes debate at the expiration of time; and (5) would include time consumed by votes and quorum calls. 98-1, Apr. 21, 1983, p .....

## § 29. By Unanimous Consent in Committee of the Whole

§ 29.1 The Committee of the Whole may, by unanimous consent, limit or allocate debate time on amendments not yet offered, but a motion to that effect is not in order. 98-1, Mar. 16, 1983, p ..... In one instance, the Committee of the Whole agreed to a unanimous-consent request to limit debate on an entire bill and all amendments thereto to a time certain, and within that overall time limit, to limit debate on a specified amendment and substitute therefor to one hour. 99-2, July 31, 1986, p .....

§ 29.2 The Committee of the Whole may, by unanimous consent, limit debate on each remaining title and all amendments thereto to a certain number of hours of debate, equally divided and controlled. 99-1, Oct. 3, 1985, pp 25897, 25947. And the Committee may by unanimous consent limit debate on the remainder of a general appropriation bill and all amendments thereto under the five-minute rule to a time certain, to be equally divided and controlled by the majority and minority managers of the bill. 99-2, July 31, 1986, p .....

§ 29.3 The Chair will not entertain a unanimous-consent request to limit debate on a bill and all amendments thereto under the five-minute rule until the entire bill has been read or considered read by unanimous consent. 97-2, Dec. 9, 1982, p ..... *Note:* To permit a request to limit debate on an entire bill prior to completion of its reading for amendment would allow amendments under the limitation only to that portion of the bill which has been read and, if the limitation were reached, would require subsequent reading of the re-

mainder of the bill without further debate on any amendments.

§ 29.4 By unanimous consent, the Committee of the Whole may limit debate on an amendment which might be offered by a specified Member on a subsequent day, and on all amendments thereto, and may allocate time thereon. 99-1, Dec. 5, 1985, p .....

§ 29.5 Instance where, by unanimous consent, the Committee of the Whole permitted additional debate on an amendment already adopted, to be equally divided and controlled, at the conclusion of which all debate on the bill and all amendments thereto would end. 99-1, Dec. 10, 1985, p .....

§ 29.11 Instance where, by unanimous consent, debate under the five-minute rule on possible amendments to be offered by two designated Members (one as a substitute for the other) and on all amendments thereto was limited and equally divided between proponents and opponents prior to the offering of those amendments. 97-1, June 18, 1981, p 12958.

§ 29.12 Instance where, by unanimous consent, the Committee of the Whole agreed at the beginning of general debate to limit and divide control of time for debate on any amendments to be offered by designated Members to certain paragraphs (or to amendments thereto). The total time for debate on the amendments having been limited, and control of the time in favor thereof given to one of those Members by unanimous consent, time consumed on the first amendment offered was deducted from the total time and the second Member was required to obtain debate time from the Member in control upon the offering of his amendment. 97-1, July 23, 1981, pp 16983, 17014.

§ 29.13 By unanimous consent, the Committee of the Whole may limit to a time certain all debate on all perfecting amendments which may be offered, and then permit a sub-

sequent amount of debate time equally divided on a pending amendment in the nature of a substitute and all amendments thereto. 97-2, Aug. 5, 1982, pp 19758 et seq.

§ 29.14 The Committee of the Whole may by unanimous consent permit additional debate on an amendment prior to its being offered notwithstanding a previous limitation on debate under the five-minute rule on all amendments to the bill. 98-1, Oct. 4, 1983, p .....

§ 29.15 Where the Committee of the Whole has, by unanimous consent, considered the remainder of a bill as read and open to amendment at any point, and has then separately limited debate on each remaining title and all amendments thereto to a number of hours of debate, equally divided and controlled, the Chair may, through the power of recognition, continue to require debate and amendments to proceed title-by-title. 99-1, Oct. 3, 1985, p 25948.

## § 30. Provisions Allocating or Reserving Time

§ 30.1 A motion to limit debate under the five-minute rule on a pending amendment in the Committee of the Whole is not in order if it includes a provision for division of time between two Members; debate time can be allocated between Members only by unanimous consent. 98-2, Aug. 2, 1984, p .....

§ 30.5 In an unusual instance, a resolution which provided an "open" rule permitted motions by the chairman of the reporting committee: (1) to include an allocation of time in any motion to limit debate; and (2) to consider the remainder of the bill or any titles thereof as read and open to amendment. 97-1, Dec. 9, 1981, pp 30193, 30194. *Note:* The unique provisions in this rule were intended to prevent filibustering tactics during the amendment process and to avoid forcing the



Chair to allocate relatively small amounts of time on an amendment to a large number of Members.

**§ 30.6** Where the House has adopted a special order limiting debate on an amendment in Committee of the Whole and equally dividing the time between the proponent and an opponent, the Committee of the Whole may, by unanimous consent, allocate some of the opposition time to the proponent where no Member has claimed time in opposition. 98-1, Mar. 3, 1983, p. .... *Note:* The Committee of the Whole may not by unanimous consent extend time for debate set by the House, but may reallocate time where there is no opposition.

**§ 30.7** Where a special order adopted by the House allocates debate time on specified amendments under a "modified closed" rule and permits no other debate during consideration under the five-minute rule, the Committee of the Whole may by unanimous consent reserve a portion of general debate time to follow consideration of all amendments. 99-1, Dec. 17, 1985, p. .... Similarly, where a "modified closed" rule permits only two amendments to a certain title in a specified order, and no amendments thereto, and divides debate time on each amendment between a proponent and opponent, the Committee of the Whole may by unanimous consent permit a portion of debate to be consumed on the second amendment prior to the Chair's putting the question on the first amendment, with a reservation of some debate time on both amendments for a subsequent day. 99-1, Dec. 6, 1985, p. ....

### **§ 31. Distribution of Time by the Chair**

**§ 31.1** Where the Committee of the Whole has limited debate on a bill and all amendments thereto, the five-minute rule may be abrogated at any time the Chair in his discretion deems it necessary to divide the remain-

ing time. 97-1, July 16, 1981, p. 16044. Where debate on an entire bill and all amendments thereto is limited to a time certain, the Chair may in his discretion recognize Members under the five-minute rule until a brief time remains, and then divide the remaining time on a pending amendment between the proponent and an opponent. 99-2, July 31, 1986, p. ....

**§ 31.2** In allocating time under a limitation on debate under the five-minute rule, the Chairman of the Committee of the Whole may in his discretion recognize first those Members wishing to offer amendments after having equally divided the time among all Members desiring to speak. 97-1, Nov. 18, 1981, p. 28074. Or the Chairman may divide the remaining debate time equally between two Members following a limitation of debate to a time certain (98-2, July 26, 1984, p. ....), and may indicate which Member may close the debate (98-2, Aug. 2, 1984, p. ....). The Chair has discretion to allocate time under a limitation on an amendment between the proponent and an opponent thereof, to be yielded by them. 97-2, Aug. 5, 1982, p. 19758. Where the Committee of the Whole has by unanimous consent limited debate on a pending title of a bill and on all amendments thereto to an hour of debate, equally divided and controlled by proponents and opponents, the Chair may in his discretion divide all the remaining time between a proponent and an opponent of the pending amendment. 99-1, Oct. 7, 1985, p. 26425. Where by unanimous consent the Committee of the Whole limits debate time under the five-minute rule separately on each of several titles of a bill, the Chair may, in his discretion, continue to recognize Members under the five-minute rule rather than allocate remaining time on each title. 99-1, Dec. 5, 1985, p. .... Where debate on a pending amendment and amendment thereto has been limited to a time certain, the Chair may, in his discretion, allocate the re-

maintaining time between the proponents of the two amendments, one of whom is the manager of the bill. 98-1, Mar. 16, 1983, p ..... In summary, the Chair may, in his discretion, either permit continued debate under the five-minute rule, divide the remaining time among those desiring to speak, or divide the time between a proponent and an opponent to be yielded by them. 97-2, May 25, 1982, p 11672. And in one instance, the Chairman exercised his discretion and allotted the remaining time in three equal parts: to the offeror of the amendment, to the offeror of the amendment to the amendment, and to the floor manager of the bill. 98-1, Apr. 13, 1983, p .....

§ 31.4 Where debate is limited on an amendment in the Committee of the Whole, the Chair divides the remaining time among all Members desiring to speak at the time the limitation was agreed to, and not merely among those Members mentioned by a Member as wishing recognition prior to the limitation. 97-1, Oct. 5, 1981, p 23154. The Chair divides the time among all Members standing when the limitation is agreed to, not just those standing when the request or motion is first stated. 98-1, June 22, 1983, p .....

§ 31.7 Where all time for debate in Committee of the Whole on a bill and all amendments thereto is limited to a time certain, the Chair may in his discretion continue to recognize Members under the five-minute rule, rather than allocate the remaining time among all Members desiring to speak or between two Members, subject to subsequent limitations on time ordered by the Committee of the Whole on separate amendments when offered. 97-2, July 29, 1982, p 18569. *Note:* Where a limitation on the entire bill is agreed to far in advance (such as four or five hours) of the expiration of time, the Chair will normally proceed under the five-minute rule subject to subsequent limitations or allocations of time. The Chair may in his discretion continue to

proceed under the five-minute rule where it would be impractical to allocate the remaining time. See 98-1, July 26, 1983, p ....., where the remaining time (1 hour, 40 minutes) was too lengthy to allocate among all Members then present or to divide between two Members. See also 98-1, Nov. 2, 1983, p ....., where some 90 minutes remained. In such cases, the Chair may in his discretion continue to proceed under the five-minute rule until he desires to allocate the remaining time on possible amendments, and may then divide that time between proponents and committee opponents of amendments before they are offered. 97-1, July 16, 1981, p 16044. Or he may subsequently choose to divide any remaining debate time among those Members standing and reserve some time for the committee to conclude debate. 98-1, Nov. 2, 1983, p ..... The Chair may also, in his discretion, continue to recognize Members under the five-minute rule, according priority to members of the committee reporting the bill, in lieu of allocating time between proponents and opponents or among all Members standing, where it cannot be determined what amendments will be offered. 98-1, July 29, 1983, p .....

§ 31.12 Where by unanimous consent debate on a pending amendment in Committee of the Whole has been equally divided between the proponent and an opponent of the amendment, those Members control all the remaining time and the Chair does not divide the time among Members standing. 97-2, July 21, 1982, p 17345.

§ 31.17 Since time consumed by a unanimous-consent request to limit debate comes out of the five minutes of the Member who yields for that purpose to another Member, the Chair may in his discretion permit the completion of that five minutes before announcing his allocation of the remaining debate time among those Members standing

at the time the limitation was agreed to. 98-1, Apr. 13, 1983, p .....

## § 32. Accounting of Time Under Limitation; Charging Time

§ 32.1 Where debate under the five-minute rule in Committee of the Whole is limited to a *time certain* by the clock, time consumed by voting comes out of the time remaining for debate, whereas limitations of a *certain amount of debate time* are not affected by time consumed by voting. 98-2, Feb. 2, 1984, p ..... A unanimous-consent request or motion to close debate under the five-minute rule in the Committee of the Whole should limit debate time either by the clock or to a number of minutes of debate, and not to a time certain for voting, since the Chair cannot control motions or points of order which might intervene at that time. 98-1, Nov. 10, 1983, p ..... However, by unanimous consent, remaining debate fixed at a *time certain* on an amendment in the nature of a substitute may be converted to *minutes of debate* and reserved to follow disposition of a pending perfecting amendment not covered by the limitation. 98-1, Apr. 13, 1983, p ..... In one instance, where a unanimous-consent request was made to limit debate on a pending amendment to a *time certain*, excluding recorded voting time, the Chair interpreted the request to limit debate to a number of minutes of *debate time* (so as also to exclude other voting time and quorum proceedings). 98-1, Nov. 17, 1983, p .....

§ 32.2 Time for voting is not charged against a limitation of one hour for the total time for debate under the five-minute rule in Committee of the Whole. 98-2, May 31, 1984, p ..... Time consumed on a point of order against the relevancy of debate does not come out of time allocated under the five-minute rule. 98-1, June 15, 1983, p ..... Where debate in the Committee of the Whole has been limited to a certain number of minutes of debate on an

amendment and all amendments thereto, time consumed by the Chair in maintaining order in the Chamber does not come out of the time allocated to any Member for debate. 99-1, June 18, 1985, p 16098. *Note:* Had debate been limited to a time certain, time consumed in maintaining order would have come out of the available debate time.

§ 32.3 Where debate on a section and all amendments thereto is limited to a *time certain*, time consumed on related matters in that interim, including unanimous-consent requests, comes out of the total remaining time, and can be extended only by unanimous consent. 99-1, Oct. 3, 1985, pp 25986, 25995. Time consumed for quorum calls and recorded votes comes out of a limitation of time for debate where debate has been limited to a *time certain*. 98-2, Aug. 2, 1984, p .....

§ 32.5 The adoption of a motion to rise during debate on an amendment in the Committee of the Whole does not affect the time remaining on the amendment when the bill is resumed as unfinished business in the Committee of the Whole, where debate is limited to a number of minutes and not to a time or day certain. 99-2, Aug. 14, 1986, p .....

§ 32.7 Where debate on a pending amendment in Committee of the Whole has been limited to *debate time* and not to a *time certain* by the clock, time consumed on a preferential motion to strike the enacting clause does not come out of the time remaining under the limitation. 97-2, July 21, 1982, p 17347.

§ 32.9 Where the Committee of the Whole is considering an amendment under a "modified closed" rule permitting only one amendment and no amendments thereto, and equally dividing the *debate time* on the amendment, time consumed under a reservation of objection to a unanimous-consent request to offer an amendment to the pending amendment comes out of the time controlled by the



Member yielding for that request. 98-1, Nov. 10, 1983, p .....

§ 32.10 The time consumed by Members yielded to in order to make unanimous-consent requests to revise and extend remarks *and* make brief statements is charged against the time controlled by the Member who has so yielded. 99-2, Aug. 6, 1986, p ..... *Note:* The Clerk to the Parliamentarian does not charge time when a Member yielded to requests unanimous consent *only* to revise and extend. The informal rule of thumb has been that if a Member consumes more than 30 seconds in his request and statement, the time is charged against the Member controlling the time.

### § 33. Amendments Offered After Expiration of Time; Motions to Strike Enacting Clause

§ 33.3 When the Committee of the Whole has limited debate on the *bill* and all amendments thereto to a time certain, even a preferential motion to strike the enacting clause is not debatable if offered after the expiration of time for debate. 98-2, Aug. 1, 1984, p .....

§ 33.4 If debate on a bill and all amendments thereto has been limited to a time certain, and a preferential motion that the Committee rise and report is offered where less than 10 minutes remains under the time limitation, the Chair divides the remaining time equally between the proponent and an opponent of the preferential motion. 98-1, July 29, 1983, p .....

### § 34. Amendments Printed in the Record

§ 34.10 While five minutes of debate in opposition to an amendment printed in the Record should, pursuant to clause 6 of Rule XXIII, be completed by the first Member recognized prior to consideration of amendments to that amendment, the Chair may permit a Member

to offer a nondebatable (unprinted) amendment to a printed amendment and then to speak for five minutes as the Member in opposition to the original amendment. 97-1, July 16, 1981, p 16053.

§ 34.11 After the expiration of a limitation on debate under the five-minute rule, an amendment which has been printed in the Record may be offered and debated, five minutes for an five minutes against, and an amendment to the amendment may be offered but may not be debated unless it has also been printed in the Record. 98-1, Apr. 28, 1983, p .....

§ 34.12 By unanimous consent, all Members were permitted to print, in that section of the Record set aside by clause 6 of Rule XXIII for proposed amendments to *reported* bills, proposed amendments to a designated *unreported* bill (which had been made in order by a special order requiring amendments to be printed in the Record by a day certain), in order that all amendments could be printed in the same portion of the Record. 98-1, Nov. 1, 1983, p ..... In a similar instance, the House by unanimous consent permitted amendments to an (unreported) concurrent resolution on the budget, submitted after adjournment of the House pursuant to a previous unanimous-consent request only permitting printing in the Record, to be printed in that portion of the Record normally reserved for amendments to reported measures under clause 6 of Rule XXIII. 98-1, Apr. 3, 1983, p .....

§ 34.13 Unanimous-consent request in the House, after adoption of a special order for consideration of a bill in Committee of the Whole (permitting consideration of an amendment printed in the Record if offered by a designated Member), allowing a Member other than the one designated to offer the amendment. 98-2, Apr. 24, 1984, p .....

§ 34.14 Where under a time limitation only five minutes of debate is available in opposition both to an amendment and to a substitute

therefor printed in the Record, one Member cannot simultaneously be recognized for 10 minutes in opposition to both amendments, but must be separately recognized on each amendment, with preference of recognition being accorded to members of the committee reporting the bill. 99-1, June 27, 1985, pp 17799-802.

## H. USE OF EXHIBITS OR PAPERS IN DEBATE

### § 35. In General

§ 35.1 *Note:* Under Rule XXX, the Committee of the Whole or the House may, on demand of any Member, vote to permit a Member to utilize an exhibit during debate. See 99-1, Apr. 23, 1985, p 9024. While a Member must obtain unanimous consent of the House to include extraneous matter in the Record with his remarks made in the Committee of the Whole, the use of an exhibit during debate in the Committee of the Whole is permitted, subject to the vote of the Committee upon objection by any Member. 99-1, June 19, 1985, p 16359 (permitting use of chart showing weaponry stockpile).

§ 35.4 Where a Member objects to another Member's reading of a paper during debate, the Chair must put the question to the House under Rule XXX whether to permit reading unless the Member chooses to continue in debate without reading. This procedure is not applicable to joint sessions to receive a message from the President. 99-1, May 2, 1985, pp 10219, 10220.

§ 35.6 The Speaker's responsibility under clause 2 of Rule I to preserve decorum during debate in the House requires that he not permit exhibits to be utilized in debate which would be demeaning to the House, and the Chair may inquire as to the Member's in-

tentions before conferring recognition. 98-2, Mar. 21, 1984, p .....

§ 35.8 While Members are permitted to use exhibits such as charts during debate (subject to the permission of the House under Rule XXX), the Speaker may under Rule I direct the removal of a chart from the well if not being utilized during debate. 97-2, Apr. 1, 1982, p 6303. The Chairman of the Committee of the Whole may also direct the removal from the well of charts or other displays if not currently being utilized in debate. 97-2, May 25, 1982, p 11752.

§ 35.9 Prior to a special-order speech in which several Members intended to use photographic exhibits of missing children, the Chair reminded all Members to address the Chair and to avoid direct references to the television audience. 99-1, Apr. 2, 1985, p 7221. *Note:* Members were utilizing C-Span television to display photographs of missing children, which is permissible in the context of debate in the House so long as the Member does not directly address the television audience, but only indirectly through the Chair.

§ 35.10 In one instance, a Member utilized dismantled weapons as an exhibit during debate in the Committee of the Whole. 99-1, Apr. 23, 1985, p 9024. *Note:* The Speaker had denied use of the Speaker's lobby for the exhibition of the dismantled weapons (his consistent policy absent proof to the Sergeant at Arms that the weapons have been totally dismantled), and the Speaker could have precluded their display during debate in order to preserve decorum.

## I. SECRET SESSIONS

### § 36. In General

§ 36.5 First instance of special order reported from Committee on Rules, providing prelimi-

nary secret session general debate on a bill, and terminating consideration of the bill for amendment under the five-minute rule after a specified period of consideration in the Committee of the Whole. The special order waived points of order against the consideration of a bill authorizing new budget authority and provided for initial general debate on confidential communications by the Permanent Select Committee on Intelligence, followed by additional secret debate also controlled by another committee to which the bill had been jointly referred, and authorizing the Speaker to declare recesses to make the necessary arrangements. 98-1, July 14, 1983, p ..... (H.Res. 261, providing for consideration of H.R. 2760, Intelligence Authorization Act, fiscal 1983; covert aid in Central America). Pending the Speaker's declaration resolving the House into the Committee of the Whole for a secret session pursuant to the special order, the Speaker announced: (1) a recess to clear the galleries and the floor of all persons except Members and necessary employees and officers of the House, to permit officers and employees to sign a notarized oath of secrecy, and to conduct a security check of the House Chamber; and (2) pursuant to Rule XXIX, all proceedings in

the secret session would remain secret until otherwise ordered by the House. Following the secret session for preliminary general debate on a bill, the Speaker reminded Members that the House had not yet voted to remove the injunction of secrecy and that Members were bound not to release or revise or make public any of the transcript thereof until further order of the House, that pursuant to special order the transcript would be referred to the two committees reporting the bill and would remain executive session records of those committees until their report to the House, subject to access by Members under clause 2(e)(2) of Rule XI. The Speaker then declared a brief recess to prepare the House Chamber for resumption of an open session. 98-1, July 19, 1983, p .....

§ 36.6 The Speaker laid before the House communications from the Chairmen of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, transmitting the recommendations of those committees as required by resolution adopted by the House that the transcript of a secret session of the House in the prior session of that Congress not be publicly released. 98-2, Jan. 23, 1984, p .....

## Chapter 30

### Voting

#### A. INTRODUCTORY

#### § 1. In General; Use of Electronic Voting Equipment

§ 1.4 Where the electronic voting system becomes inoperable in the midst of a record vote, the Speaker or the Chairman may utilize standby procedures, such as directing the

Clerk to call the roll or directing a recorded teller vote under clause 5 of Rule I, the latter being the less time-consuming procedure. 98-1, July 13, 1983, p ..... Having directed the Clerk to call the roll for a vote where the electronic voting system has become inoperable during a recorded vote, the Chairman may then entertain a unanimous-consent request to vacate the proceedings by which the



recorded vote was ordered. 98-2, May 31, 1984, p ..... Where Members have voted by electronic device which then malfunctions during the vote, causing the Chair to convert to an alphabetical call of the roll, the Chair may announce the inclusion in the roll call tally of those Members who properly recorded their votes prior to the malfunction and who did not respond to the roll call, where the Clerk has been able to retrieve a record of those votes from the electronic system. 97-1, July 22, 1981, pp 16819, 16820; 98-1, July 13, 1983, p .....

§ 1.5 99-1, Sept. 19, 1985, p 24245; 99-1, Dec. 4, 1985, p .....

§ 1.10 *Delete and Insert*: In 1981, the House amended Rule I clause 5(b) to consolidate under one provision the various authorities for the Speaker to postpone (or "cluster") record votes (within a period of two legislative days) on passage of bills, adoption of resolutions, agreeing to conference reports, ordering the previous question on special orders, and on motions to suspend the rules. 97-1, Jan. 5, 1981, p 98. Thus, under this rule, the Speaker may postpone the vote on the question of a passage of a bill, on which the vote has been objected to on the grounds that a quorum is not present, until the following day. 99-2, Oct. 9, 1986, p ..... Where the Speaker announces pursuant to this rule that he has postponed further proceedings on a vote to the following day, he may designate that it be the first order of business on that day (or unfinished business at any other designated time or place in the schedule on that day). 97-1, Dec. 8, 1981, p 30003. Where the Speaker has postponed certain votes to come at a designated time in the legislative schedule within a two-day period pursuant to the new rule, he may subsequently redesignate the time when the votes will be taken within that period. 98-2, June 6, 1984, p ..... The Speaker may announce that postponed votes on certain motions to suspend the rules will be taken the following day immediately fol-

lowing record votes which might be ordered on suspension motions debated on that day. 97-1, May 18, 1981, pp 9923, 9924. In exercising his authority under the new rule, the Speaker may announce that the consideration of certain postponed motions to suspend the rules may be interrupted by other privileged business. 97-1, Dec. 15, 1981, p 31506. And the "clustering" of record votes on postponed suspension motions does not prevent the Chair from entertaining a unanimous-consent request between postponed votes. 98-1, Feb. 15, 1983, p ..... Where a Member withdraws his demand for the yeas and nays on a motion to suspend the rules prior to the Chair's count as to whether one-fifth of Members present support the demand, and then objects to the vote for lack of a quorum, the Speaker pursuant to clause 5, Rule I, immediately announces his postponement of the vote as previously announced and the point of no quorum is considered as withdrawn (no question then being pending), and the question is later put de novo by voice vote as unfinished business (and the yeas and nays could again be demanded). 99-1, Dec. 10, 1985, p .....

§ 1.11 In 1983, the House amended Rule I clause 5(b)(2) to give the Speaker the discretion to postpone record votes on his approval of the Journal to a designated time on that legislative day. 98-1, Jan. 3, 1983, p ..... For the first instance of the Speaker exercising his discretionary authority under the rule to postpone further proceedings on the question of agreeing to the Speaker's approval of the Journal, see 98-1, Nov. 10, 1983, p ..... The authority of the Speaker to postpone such a vote does not continue once a record vote has commenced or once the Speaker has announced the absence of a quorum. 98-1, July 13, 1983, p .....

§ 1.12 Pursuant to clause 5 of Rule I, the Speaker may "cluster" postponed votes on a motion to suspend the rules and on adoption of a resolution in the order in which those

questions were considered on the preceding day, and may reduce to five minutes the time for the second electronic vote. 98-1, July 19, 1983, p ..... *Note:* Clause 5 of Rule I has been liberally interpreted to permit the Speaker to cluster record votes on all the types of questions permitted under that rule in the order in which those votes were entertained without having to use 15-minute votes on the first question in each series.

§ 1.13 Since clause 5(b)(1) of Rule I authorizes the Speaker to postpone roll call votes on designated questions but not on a motion to instruct conferees, unanimous consent is required to authorize the Speaker to postpone the vote on such a motion. 99-2, Oct. 6, 1986, p ..... Likewise, since procedural motions to postpone are not included among those propositions on which the Speaker is authorized to postpone a vote, the Speaker may, by unanimous consent only, postpone a yea and nay vote on a motion to postpone indefinitely. 98-1, Aug. 1, 1983, p .....

§ 1.14 Having announced that roll call votes on motions to suspend the rules would be postponed until after debate on all suspensions, the Speaker may, pursuant to clause 5 of Rule I, announce after such debate has been completed that he will recognize for further legislative business before the postponed votes on suspensions, and may postpone roll call votes on such further business until after the postponed votes on suspensions have been conducted. 98-1, May 17, 1983, p .....

§ 1.15 In 1981, the House amended Rule VIII to prohibit a Member from authorizing any other persons to cast his vote. 97-1, Jan. 5, 1981, p 98.

§ 1.16 The majority required in the House to pass an amendment to the U.S. Constitution, like the majority required to pass a bill over the President's veto or to adopt a motion to suspend the rules, is two-thirds of those Members voting, a quorum being present, and Members who only indicate that they are

"present" are not counted in the computation. 98-1, Nov. 15, 1983, p .....

## § 2. Requests to Alter Electronically Recorded Votes

§ 2.1 A Member may not change his vote recorded by electronic device, even by unanimous consent, after the result has been announced. 99-2, June 17, 1986, p .....

## § 3. Putting the Question

§ 3.3 Where existing law (Pub. L. No. 98-473) requires the vote to occur on final passage of a joint resolution immediately following the conclusion of general debate thereon and a possible quorum call, the Speaker puts the question on final passage when the Committee of the Whole rises without putting the question on ordering the previous question or on engrossment and third reading. 99-1, Apr. 23, 1985, p 9085. *Note:* The clear intent of the law was to prevent intervening motions and questions once general debate had concluded, and thus the standing rules of the House requiring the Speaker to put the question on engrossment and third reading were waived by the precise language of the statute to require an immediate vote on final passage. A similar procedure was utilized at the conclusion of general debate on a joint resolution authorizing obligation of funds for the MX missile; the question was put pursuant to a statute requiring the House to immediately vote on final passage at the conclusion of debate and one quorum call (Pub. L. No. 98-525). 99-1, Mar. 26, 1985, pp 6345, 6346.

## § 5. Pairing of Votes

§ 5.4 Where a Member has a "live" pair on a question requiring a two-thirds vote, such as a motion to suspend the rules, he changes his vote to "present" pursuant to a pairing between two Members in the affirmative and

one Member in the negative. 98-1, Nov. 15, 1983, p ..... However, in one instance, a Member changed his vote from "nay" to "present" pursuant to an agreement with another Member who was absent and would have voted "yea" on the question of overriding a Presidential veto (although "live pairs" on questions requiring a two-thirds vote normally pair two Members in the affirmative with one in the negative). 99-2, Aug. 6, 1986, p .....

### C. RECORDED VOTES

#### § 12. In General; Demanding a Recorded Vote

§ 12.1 Where a Member requested a recorded vote in the House, but the Speaker interpreted the request as a demand for the yeas and nays, it was the Chair's statement of the question, and not the Member's request, which controlled whether one-fifth of those present or one-fifth of a quorum were required to support the demand. 97-1, Oct. 1, 1981, p 22760.

§ 12.4 Once a request for a recorded vote on an amendment in the Committee of the Whole has been denied, it may not be renewed, even after a quorum call or division vote has intervened. 97-1, July 16, 1981, p 16003; 98-1, Oct. 25, 1983, p ..... However, a recorded vote having been refused in the Committee, a point of no quorum may still lie under clause 2 of Rule XXIII if the pending question has not been disposed of by a division or teller vote. 97-2, May 27, 1982, p 12470. And while a request for a recorded vote once denied cannot be renewed following a quorum call in the Committee, the request remains pending where the Chair has interrupted its count to count for a quorum. 97-2, Aug. 5, 1982, p 19658.

§ 12.6 It is too late to demand a recorded vote on an amendment after the Chair has announced the result of a voice vote thereon, where the Member making the demand is not on his feet seeking recognition at the time the result is announced. 97-1, July 9, 1981, p 15202. The demand comes too late after the amendment has been agreed to and the Chair has inquired as to the purpose of another Member rising. 98-1, July 21, 1983, p ..... However, a parliamentary inquiry relating to a pending motion occurring after the Chair has announced the result of a voice vote does not constitute such intervening business as to preclude the right of a Member to demand a recorded vote on the pending motion. 98-2, May 23, 1984, p .....; 98-2, July 26, 1984, p ..... In one instance, without objection, the Speaker vacated the proceedings by which a bill was passed by voice vote in order that a Member, who had been on his feet seeking recognition, could demand a roll call vote on the passage of the bill. 98-2, June 6, 1984, p .....

§ 12.8 It is the responsibility of the Speaker, and not the Chairman of the Committee of the Whole, to determine whether a record vote will be in order on the question of final passage of legislation in the House. 97-1, Dec. 8, 1981, p 30003.

§ 12.9 The Speaker pro tempore cannot comment or rule on the propriety of the refusal of a Chairman of the Committee of the Whole to recognize a Member to demand a recorded vote. 99-1, Dec. 12, 1985, p .....

#### § 13. Time Limitations

§ 13.1 In one instance, the Committee of the Whole agreed to a unanimous-consent request propounded by the manager of a bill that a recorded vote on an amendment be vacated and that a new recorded vote be taken on the amendment (where it was alleged that erroneous time clocks outside the Chamber and on



the televised proceedings misled Members as to the amount of time left for the previous recorded vote). Subsequent requests in the House to expunge the first recorded vote from the Record and Journal and to permit Members recorded on the first vote to be recorded on the second, and to expunge the first recorded vote, required unanimous consent. 98-1, May 3, 1983, p .....

§ 13.4 *Delete and Insert:* The 96th Congress adopted provisions amending Rule XV clause 5 to permit the Speaker discretion to reduce the electronic voting time to five minutes on the final passage or adoption of a bill or resolution or conference report if ordered immediately following a 15-minute vote on a motion to recommit. 96-1, Jan. 15, 1979, p 8 [H. Res. 5]. For an instance in which the Speaker invoked this authority to permit a five-minute vote following a roll call vote on a motion to recommit a bill, see 96-1, June 27, 1979, p 16976. Five-minute votes, at the Chair's discretion, are also permitted immediately following a regular quorum call in Committee of the Whole (Rule XXIII clause 2). Five-minute votes are likewise permitted where the Chair "clusters" votes after the first 15-minute vote on final passage of bills, resolutions, or conference reports, on adoption of reports from the Committee on Rules and on motions to suspend the rules. Rule I clause 5(b), adopted Jan. 5, 1981. In one instance, by unanimous consent, the House reduced to five minutes the minimum time for a required record vote on a motion to close a conference meeting, which motion would be made immediately following another record vote previously postponed, where the Speaker had no authority to "cluster" the vote on that motion under clause 5 of Rule I. 98-1, Aug. 1, 1983, p .....

§ 13.5 Pursuant to clause 5(b) of Rule XV, the Chair may reduce to a minimum of five minutes the period of time within which a roll call vote taken by electronic device, if ordered, will be taken on the question of

adoption of a resolution following a roll call vote by electronic device on the question of recommittal or referral. 98-1, Apr. 28, 1983, p ..... *Note:* The Speaker has no authority under clause 5 of Rule XV to reduce the time on an electronic vote in the House except on final passage following a 15-minute vote on recommittal. See 98-1, Nov. 8, 1983, p ..... However, by unanimous consent, the Chair may be authorized to reduce the time to a minimum of five minutes on a roll call vote in the House. 98-2, June 21, 1984, p ..... And in one instance, by unanimous consent, the House permitted a reduction of time to five minutes on a record vote by electronic device, if ordered, on an amendment reported from the Committee of the Whole on which a separate vote had been demanded. 98-1, Nov. 8, 1983, p ..... See also 99-1, Oct. 8, 1985, pp 26665-67, where the same procedure was followed to reduce the period of time for the second and subsequent electronic votes, if ordered, on amendments reported from the Committee of the Whole on which separate votes had been demanded, and then on recommittal and final passage.

§ 13.6 *Note:* Under clause 5 of Rule I, the Speaker may only reduce the time to five minutes on "clustered" record votes following the first vote in the series; and the first vote must be a 15-minute vote. In one instance, by unanimous consent, the House permitted a reduction of time to five minutes on a record vote by electronic device, if ordered, on a motion to suspend the rules on which further proceedings had been postponed earlier that day (where it became the pending business immediately following a five-minute record vote on final passage of another bill). 98-1, Nov. 8, 1983, p .....

§ 13.7 The Chair may decline, in his discretion, to recognize for a unanimous-consent request to reduce to five minutes the *first* electronically recorded vote where subsequent votes had been so reduced, where the bill and

light system would not give adequate notice to absent Members of the initial five-minute vote. 99-1, Oct. 8, 1985, pp 26665-67. While the Speaker may under clause 5(b)(3) of Rule I reduce to five minutes the *second* and subsequent record votes on motions to suspend the rules on which he has postponed further proceedings, the House has, by unanimous consent, permitted the *first* postponed suspension vote to be reduced to five minutes where it immediately followed a record vote on final passage of a pending bill. 98-2, July 24, 1984, p ..... *Note:* The Speaker will not entertain unanimous-consent requests to reduce the first postponed record vote in a series to five minutes unless Members are adequately notified and unless it immediately follows a 15-minute vote on a pending matter.

§ 13.8 Having clustered record votes on motions to suspend the rules and then having clustered record votes on passage of other measures considered immediately after debate on the suspension motions, the Speaker may, pursuant to clause 5 of Rule I, conduct all the postponed votes in a sequence and reduce to five minutes the time for all electronic votes after the first suspension vote, and unanimous consent is not required. 98-1, May 17, 1983, p ..... On the other hand, where the Speaker has postponed record votes on motions to suspend the rules to a designated place immediately following final passage or adoption of another unrelated measure, he may reduce to five minutes the first postponed record vote, following a 15-minute vote on the measure, only by unanimous consent, since the first vote in a series of postponed votes must be a 15-minute vote pursuant to clause 5(b)(3) of Rule I. 98-1, May 24, 1983, p .....

§ 13.9 Where a special order governing consideration of a bill in Committee of the Whole provided that the Chairman could announce after a recorded vote had been ordered that he would reduce to not less than five minutes the period of time in which a recorded vote by electronic device, if ordered,

would be taken on any amendment which was to be voted on without further debate *immediately* following that 15-minute vote, and where pending were an amendment to an amendment and an amendment to a substitute therefor, the Chairman of the Committee of the Whole advised that if Members reserved time (allocated under the rule) to debate the amendment to the substitute after the Chair put the question on the amendment to the amendment, the Chair would be unable to order a five-minute vote on the amendment to the substitute, since debate could intervene between the votes and since the announcement of a possible five-minute vote must be made by the Chair in advance under Rule XXIII clause 2. 98-1, May 4, 1983, p .....

§ 13.10 While the Chairman of the Committee of the Whole has on rare occasions entertained a unanimous-consent request to reduce the minimum period of time for a recorded vote to five minutes, the Chair will not entertain such a request under circumstances (such as where debate has intervened after a previous roll call vote) where Members may have inadequate notice of the reduction in time for voting. 98-2, June 27, 1984, p ..... Thus, the Chairman will not entertain unanimous-consent requests to reduce the time for possible recorded votes by electronic device on consecutive amendments, where Members would not have adequate notice. 99-1, July 10, 1985, p 18423.

§ 13.11 By unanimous consent, the Committee of the Whole permitted consecutive subsequent recorded votes, if ordered on divisible portions of an amendment, to be five-minute votes by electronic device, where no debate time remained on any portion of the amendment. 98-1, Nov. 8, 1983, p .....

## D. VOTING BY THE YEAS AND NAYS

### § 16. In General

§ 16.2 98-2, July 26, 1984, p .....

§ 16.8 The Senate considered by unanimous consent and agreed to a resolution providing a standing order that during yea and nay votes in the Senate each Senator be required to vote from his assigned desk. 98-2, Oct. 11, 1984, p .....

§ 16.9 While the Constitution and the rules of the House require that votes taken by the yeas and nays be spread upon the Journal, neither requires that a Member's vote be made public immediately. 99-1, Sept. 19, 1985, p 24245.

## E. DIVISIONS

### § 22. Voting by Division

§ 22.1 Only one demand for a vote by division on a pending question is in order. 98-2, July 26, 1984, p .....

### § 23. Division of the Question for Voting

§ 23.1 A demand for a division of the question is made in the form of a request (not a motion) prior to the Chair's putting the question on the amendment. 98-1, Nov. 8, 1983, p .....

§ 23.2 In Committee of the Whole, a request for a division of the question on an amendment may be made at any time before the Chair puts the question thereon (5 Hinds § 6162). 97-1, Oct. 21, 1981, p 24785. *Note:* An amendment reported from the Committee of the Whole is not subject to a division of

the question in the House (4 Hinds §§ 4885, 4892).

§ 23.3 Any Member may, as a matter of right, demand a division of the question on an amendment before the Chair puts the question thereon, if the amendment contains propositions so distinct in substance that one being taken away, a substantive proposition remains. 98-1, Nov. 8, 1983, p .....

§ 23.7 An amendment striking out various unrelated propositions may be divided for purposes of voting (8 Cannon § 3166). 98-2, Mar. 28, 1984, p .....

§ 23.8 Where a division of the question is demanded on a separable portion of an amendment consisting of several divisible parts, the Chair puts the question first on the remaining portions of the amendment, and that portion on which a division is demanded remains open for further debate and amendment (see *Manual* § 482). If a division of the question is demanded on more than one portion of an amendment, the Chair puts the question first on the remaining portions of the amendment (if any), then on the first part on which a division is requested, and then on the subsequent divisible portion. 97-1, Oct. 21, 1981, p 24789.

§ 23.9 Where a division of the question was demanded on an amendment separable into two substantive propositions, the Chair first put the question on the first substantive portion of the amendment and then on the remaining substantive portion which included a technical conforming reference at the beginning of the amendment. 98-1, Aug. 4, 1983, p .....

§ 23.10 An amendment containing separate paragraphs appropriating funds for different programs may be substantively and grammatically divisible although preceded by the same prefatory language applicable to all the paragraphs. 98-1, Nov. 8, 1983, p .....



§ 23.11 An amendment proposed in a motion to concur in a Senate amendment with an amendment is divisible only if the proposed House amendment is in a form subject to a division of the question, and one motion to strike out and insert proposed in such a motion is not divisible under clause 7 of Rule XVI. 98-2, Oct. 11, 1984, p ..... *Note:* An amendment proposed in a motion to concur with an amendment may be divided if in divisible form. But the motion to concur with an amendment may not be divided between concurring and amending (8 Cannon § 3176), and a motion to concur with an amendment adding a new provision to a Senate amendment may not be divided where that subsection to be added is not itself divisible substantively and grammatically. However, if the proposed House amendment to the Senate

amendment is not a motion to strike out and insert, but rather a motion to insert separable provisions, it can be divided.

§ 23.12 A resolution with two resolve clauses separately directing the Speaker to certify to the United States Attorney the contemptuous conduct of two individuals is subject to a demand for a division of the question as to each individual. 99-2, Feb. 27, 1986, p ..... (H. Res. 384). *Note:* Compare Speaker Byrns' ruling of May 18, 1936, p 8220, that one contempt resolution certifying three persons in one resolve clause was not divisible. In that case, the resolution (H. Res. 532, 74th Cong.) was grammatically indivisible; in the present case separate resolve clauses were drafted for each witness, as logically each certification should be subject to a separate vote.

## Chapter 31

# Points of Order; Parliamentary Inquiries

## A. POINTS OF ORDER

### § 1. In General; Effect

§ 1.1 It is appropriate for the Chair to determine whether a point of order is being raised under a particular rule of the House. 98-2, Oct. 2, 1984, p ..... It is not a proper point of order merely to inquire as to the legislative effect of adoption of an amendment. 99-2, Aug. 7, 1986, p .....

§ 1.3 Where the Chair entertains two points of order against a provision based upon alleged violations of separate rules, and both points of order are conceded by the manager of the bill, the Chair may nevertheless sustain only one of the points of order. 99-2, Aug. 1, 1986, p .....

§ 1.10 A Member's allegation that debate between two other Members was an improper attempt to establish legislative history on a pending motion in the House was held not to constitute a proper point of order or parliamentary inquiry. 97-2, Dec. 2, 1982, pp 28559, 28560.

§ 1.11 The Chair only rules on points of order when required to do so, and will permit withdrawal of an amendment (by unanimous consent in Committee of the Whole) prior to ruling on a point of order. 98-1, June 7, 1983, p .....

### § 2. Reserving Points of Order

§ 2.2 It is within the discretion of the Chair whether to permit a reservation of a point of order against an amendment or to dispose of

the point of order prior to debate on the amendment. 97-1, Oct. 14, 1981, pp 23882, 23884.

§ 2.6 Reservation of a point of order against an amendment is within the discretion of the Chair, who may permit debate to be had by the proponent on the merits of his amendment before hearing arguments on the point of order. 97-1, May 12, 1981, pp 9320, 9323. The Chair has the discretion to insist that the point of order be made following debate by the proponent of the amendment and prior to recognition of other Members. 98-2, May 16, 1984, p ..... It follows that a Member who reserves a point of order in the Committee of the Whole against an amendment is not entitled to recognition for debate thereon; rather the proponent of the amendment is recognized under the five-minute rule when the point of order is reserved. 99-1, Oct. 7, 1985, p 26444. *Note:* Of course, if the point of order is made against the amendment, rather than reserved, the Member making the point of order is immediately recognized for argument thereon, prior to debate on the merits of the amendment.

§ 2.7 While the reservation of a point of order by one Member inures to all Members who may then make the point of order when entertained by the Chair, withdrawal of a reservation by one Member requires other Members to either make or continue to reserve the point of order at that point, and a further reservation comes too late after there has been subsequent debate. 97-2, Dec. 15, 1982, p .....

§ 2.8 One Member's reservation of a point of order against an amendment protects the rights of all Members to insist on a point of order at the time the point of order is withdrawn by that Member. 98-2, June 6, 1984, p .....

### § 3. Time to Raise Points of Order

§ 3.4 A point of order against a motion to recommit a bill on the basis that it contains an amendment seeking to change an amendment already adopted by the House must be made after the motion is read, and comes too late after there has been debate thereon. 97-2, May 13, 1982, p 9838.

§ 3.5 Clause 5(b) of Rule XXI prohibits the reporting of a tax or tariff measure from a committee not having that jurisdiction, and if the Chair sustains a point of order on that basis the provision in question is automatically stricken from the bill; such a point of order may be raised at "any time." 98-1, Oct. 27, 1983, p ..... The rule prohibits a tax measure from being offered as an amendment to a bill reported from a committee not having jurisdiction over tax measures. 98-1, Sept. 21, 1983, p .....

### § 5. — Against Amendments

§ 5.1 A point of order against an amendment should be made or reserved before the proponent of the amendment has been recognized to debate the amendment. 99-1, Oct. 1, 1985, p 25440. A point of order against an amendment is properly made (or reserved) immediately after the reading thereof and comes too late after there has been debate on the amendment. 98-2, Aug. 2, 1984, p .....

§ 5.6 A Member may make or reserve a point of order against an amendment immediately when it is offered and prior to debate thereon, but where a point of order has been reserved and then withdrawn following some debate, another Member may make or continue to reserve a point of order only at that point and not after subsequent debate. 97-2, Dec. 15, 1982, p .....

§ 5.7 A point of order against an amendment comes too late if debate has begun thereon, but the Chair will recognize a Member to

make or reserve a point of order if he has been on his feet seeking recognition for that purpose during the reading of the amendment. 98-2, May 24, 1984, p .....

## § 6. Debate on Points of Order

§ 6.1 Argument on a point of order is at the discretion of the Chair, and Members seeking to be heard must address the Chair and cannot engage in "colloquys" on the point of order. 99-2, Sept. 18, 1986, p .....

§ 6.5 The Chairman of the Committee of the Whole may in his discretion entertain (or initiate himself) a request for further argument on a point of order previously ruled upon even where the paragraph has been passed in the reading of the bill for amendment, and unanimous consent is not required (8 Cannon § 3435), where existing law not previously called to the Chair's attention would require the ruling to be reversed. 98-1, June 8, 1983, p .....

## § 7. Waiver of Points of Order

§ 7.6 A special order reported from the Committee on Rules which provides for the consideration of a measure or matter but which does not waive points of order against consideration does not prevent a point of order against consideration based on a specific rule of the House. 98-1, Mar. 22, 1983, p .....

§ 7.7 Where unanimous consent is granted to permit consideration in the House of a reported bill prior to three-day availability of the report, but points of order are not waived against consideration, the bill when called up remains subject to any other point of order against consideration. 97-2, Feb. 4, 1982, pp 844, 845.

§ 7.8 First instance where, by unanimous consent, the House agreed to waive all points of order against an *unspecified* House amendment to be offered by a designated Member

to a Senate amendment *not yet passed* by the Senate. 97-2, Dec. 20, 1982, p .....

## § 8. Appeals

§ 8.1 On a roll call vote, the Committee of the Whole sustained on appeal the ruling of the Chair on a question of the germaneness of an amendment. 98-2, June 26, 1984, p .....

§ 8.3 In the Senate, a point of order that a pending measure violates the U.S. Constitution is submitted by the Chair to the Senate for decision thereon. 99-2, Feb. 4, 1986, p .....

§ 8.4 The House laid on the table an appeal from the Chair's ruling that a motion to correct a typographical error in the Record does not give rise to a question of privilege. 99-1, Apr. 25, 1985, p 9419.

§ 8.6 Although an appeal pending at adjournment on a day set apart for Private Calendar business and related to private business goes over to the next day provided for consideration of business on the Private Calendar (5 Hinds § 6945), where the House has adjourned to meet again on the same calendar day and the call of the Private Calendar is still in order and is unfinished business, the appeal comes up as unfinished business immediately after the approval of the Journal. 97-1, Nov. 17, 1981, pp 27772, 27773.

## B. PARLIAMENTARY INQUIRIES

### § 9. In General

§ 9.2 Questions as to the substantive effect of pending amendments are not entertained as parliamentary inquiries. 98-2, May 23, 1984, p .....

And it is not a proper parliamentary inquiry to ask the Chair to characterize an amendment on which a separate vote has been demanded. 98-2, May 31, 1984, p .....



§ 9.7 The question as to whether or not there is precedent for a particular type of special order reported from the Committee on Rules is not a proper parliamentary inquiry but should be directed to the Member managing the resolution on behalf of the Committee on Rules. 98-1, Nov. 18, 1983, p .....

§ 9.8 The Chair may, in his discretion, entertain a parliamentary inquiry to permit an explanation of a unanimous-consent order. 99-1, June 19, 1985, p 16367.

§ 9.9 It is not a proper parliamentary inquiry to ask the Chair whether a resolution report-

ed from the Committee on Rules, but not yet called up for consideration, would have the effect of violating the rights of Members; the Chair does not render advisory opinions. 99-2, Oct. 14, 1986, p .....

## § 10. When in Order

§ 10.1 A Member wishing to propound a parliamentary inquiry must be yielded to for that purpose by the Member controlling the debate in the House. 98-1, Nov. 18, 1983, p .....; 99-2, Oct. 1, 1986, p .....

## Chapter 32

# House-Senate Relations

## A. INTRODUCTORY

### § 1. In General; Messages Between the Houses

§ 1.7 In the Senate, tabling a House amendment to a Senate amendment is messaged to the House as a disagreement to the House amendment. 99-2, Oct. 16, 1986, p .....; 99-2, Oct. 17, 1986, p ..... *Note:* In the Senate, unlike the House, tabling an amendment of the other House does not kill the bill, but rather is a preferential motion to disagree to the House amendment and is decided without debate.

### § 2. Messages Relating to Bills

§ 2.3 The House agreed to a resolution offered as a question of privilege requesting the Senate to return a bill and amendments thereto to the House (the message to the Senate having erroneously indicated House concurrence in a Senate amendment which the

House in fact amended). 97-2, Oct. 1, 1982, p 27172. *Note:* The House had amended the Senate amendments to the House amendments but the message showed that the House had agreed to the Senate amendments. No further action by the House was required; the Clerk re-engrossed the message and transmitted the corrected message to the Senate.

§ 2.6 The Clerk is authorized under clause 5 Rule III to receive messages from the Senate when the House is not in session. 99-1, Nov. 4, 1985, p 30365.

### § 3. House Action on Senate Bills

§ 3.8 The House agreed to a unanimous-consent request providing for the consideration of a Senate bill reported by committee in the House; previous question considered as ordered to final passage without intervening motion except the reported committee perfecting amendment and one amendment to be offered by a designated Member. 97-2, Sept. 30, 1982, p 26293.

§ 3.9 Form of unanimous-consent request to consider a Senate bill on the Speaker's table in the House with a specified amendment (in the nature of a substitute) to be considered as pending. 97-2, Oct. 1, 1982, pp 27362, 27365-68. *Note:* This request was unusual in that, normally, a unanimous-consent request to consider a Senate bill (either on the Speaker's table or discharged from committee), merely involves consideration of a bill in the House under the hour rule, and does not include the pendency of any particular amendment as part of the request.

§ 3.10 Special order permitting consideration of a Senate bill on the Speaker's table (similar to a House-passed bill) in the House without intervening motion; in order to offer an amendment in the nature of a substitute consisting of the text of the House-passed bill, with the previous question ordered on the amendment. 98-2, Aug. 8, 1984, p .....

#### § 4. House Action on Senate Resolutions

§ 4.4 Special order reported from the Committee on Rules providing for consideration in the House of a Senate joint resolution on the Speaker's table (identical to a House joint resolution passed by the House on the preceding day). 97-1, Dec. 10, 1981, p 30477.

§ 4.5 Unanimous-consent request making in order the consideration in the House, on the following day or any day thereafter, of a House joint resolution not yet reported, or an identical Senate joint resolution if passed by the Senate. 97-2, Sept. 21, 1982, p 24412. *Note:* This measure was emergency legislation to prevent a national railway strike. The request was unusual in that it made in order consideration of a hypothetical Senate joint resolution if passed by the Senate.

§ 4.6 Special order reported from the Committee on Rules, conferring on the Speaker discretionary recognition authority to permit

consideration in the House of a Senate joint resolution not yet passed by the Senate (and required by law to be immediately referred to committee if received in the House), if similar to a House-reported joint resolution following passage thereof, and permitting additional discretionary motions to amend the Senate resolution. 98-1, Sept. 28, 1983, p .....

§ 4.7 The House by unanimous consent permitted the Chairman of the Budget Committee to offer a motion that the House recede from its amendment to a concurrent resolution on the budget (reported from conference in disagreement) and to concur in that resolution with another amendment, debate on that motion equally divided between majority and minority parties. 99-2, June 26, 1986, p .....

#### § 5. House Action on Senate Amendments

§ 5.1 Before the stage of disagreement has been reached on a Senate amendment to a House amendment to a Senate amendment to a House bill which requires consideration in the Committee of the Whole, the Senate amendment may be disposed of by unanimous consent only, and no privileged motion for its disposition is in order except under clause 1 of Rule XX. 98-2, Oct. 11, 1984, p .....

And an amendment to a Senate amendment to a House-passed measure on the Speaker's table is ordinarily not in order until unanimous consent is granted for immediate consideration of the Senate amendment in the House. 99-2, June 19, 1986, p ..... In one instance, by unanimous consent, the House agreed to consider (prior to the stage of disagreement) a motion in the House to concur in a Senate amendment to a special appropriation bill without intervening motion and to waive all points of order against consideration of the Senate amendment. 97-2, Feb. 10, 1982, p 1462.

§ 5.3 In 1984, the Chair announced guidelines for recognition for unanimous-consent requests to dispose of Senate amendments to House-passed bills on the Speaker's table. The Chair indicated that he would entertain a unanimous-consent request for the disposition of a Senate amendment to a House-passed bill on the Speaker's table, only if made by the chairman of the committee with jurisdiction, or by another member of the committee authorized formally or informally by the committee to make the request. Committee authorization of a Member to seek unanimous consent in the House to dispose of such amendments need not necessarily be the result of an official vote of the committee, but could be informally communicated to the Chair by the committee chairman. 98-2, Apr. 26, 1984, p ..... In one instance, pursuant to a single unanimous-consent request, the House amended a Senate amendment with the text of another bill introduced in the House (consisting of provisions of two House-passed bills comparable to the Senate amendment), insisted on the House amendment, and requested a conference. 97-2, Mar. 16, 1982, p 4227. In a more recent instance, the House by unanimous consent made in order the consideration of a motion by the Majority Leader or his designee to disagree to any Senate amendments which might be added to a House-passed bill then pending in the Senate, and then, upon adoption of that motion, permitting consideration of a separate bill if called up by the Majority Leader or his designee, consisting of the text of the original House-passed bill, under a "closed" rule in the House precluding amendment. Subsequently, pursuant to this authority, the House considered and adopted a motion (before the stage of disagreement) taking from the Speaker's table a House bill, agreeing to one Senate amendment, and disagreeing to the other Senate amendment. 99-2, Aug. 15, 1986, p .....

§ 5.4 Resolutions from the Committee on Rules may be used to authorize the consideration of a motion to dispose of a Senate amendment prior to the stage of disagreement. Thus, a special order may permit the consideration of a motion, if offered by the chairman of the committee with jurisdiction, to take a House-passed bill from the Speaker's table with a Senate amendment and to concur in the Senate amendment with an amendment. 98-2, Oct. 11, 1984, p ..... Or it may permit a motion in the House, if offered by a designated Member or his designee, to amend a Senate amendment to a House joint resolution on the Speaker's table with the text of an amendment printed in the Record. 99-1, Dec. 11, 1985, p .....

§ 5.6 A resolution was agreed to, under suspension of the rules, dividing a Senate amendment to a House-passed bill for disposition by two subsequent motions to suspend the rules and concur in designated portions thereof. 98-2, July 24, 1984, p ..... The House has also agreed to a motion to suspend the rules and agree to a resolution whereby the House shall be considered to have taken from the Speaker's table a House bill with a Senate amendment thereto, and to have agreed to the Senate amendment with a further amendment consisting of the text of the House-passed bill and the text of the committee amendment to a reported House bill, and to have insisted on the House amendment and to have requested a conference with the Senate. 98-2, Aug. 8, 1984, p ..... The House agreed to a resolution, considered under suspension of the rules, agreeing to a Senate amendment (inserting text) to a House bill, with an amendment changing the text of the original House bill. 99-2, Oct. 14, 1986, p .....

§ 5.7 The Senate having discharged a House bill with a Senate amendment from conference and further insisted on its amendment, being in possession of the papers, motions in the House to dispose of the Senate amend-



ment are privileged when the message and papers are received, the stage of disagreement having been reached and the conferees having been discharged. 97-2, Dec. 20, 1982, p .....

§ 5.9 Instance where, the Senate having "amended" a House amendment to a Senate bill by merely striking out the text of the House amendment (rather than disagree to the House amendment), the House, by unanimous consent, concurred in the Senate amendment. 98-2, Sept. 6, 1984, p .....

§ 5.10 Instance where by unanimous consent the Senate agreed to a deletion of an amendment to a pending House-passed bill contingent upon House concurrence to the same amendment of the Senate to another measure pending in the House. 98-2, Oct. 11, 1984, p .....

### § 5A. — Self-executing Special Orders [New]

§ 5A.1 A recent trend in House-Senate relations has been the use of so-called "self-executing" special orders—that is, resolutions from the Committee on Rules which, if adopted by the House, make some legislative disposition of a Senate amendment, and eliminate the need for a motion to agree with, recede from, or otherwise dispose of the amendment. Such resolutions are sometimes referred to as "hereby" special orders because the House, in adopting the resolution as drafted, "hereby" agrees to the disposition of the amendment as proposed by that resolution. If the House adopts a resolution which by its terms takes a House bill with a Senate amendment from the Speaker's table and "hereby" agrees to that amendment (see, for example, 99-1, Mar. 5, 1985, p 4347), no further action by the House is required, and the amendment is never itself before the House for separate consideration. See 6 Deschler's Precedents §§ 27.16, 27.19. In one recent instance, the House adopted a resolution providing that

upon its adoption the House *be considered* to have taken from the Speaker's table a House bill with certain amendments, to have receded from its disagreement to a Senate amendment, and to have concurred therein with an amendment printed in the Record. 99-2, Mar. 6, 1986, p .....

In a more complex instance, the special order disposed of Senate amendments to a House concurrent resolution on the Speaker's table in three ways: (1) by disagreeing to several designated amendments; (2) by agreeing with a specified amendment to one Senate amendment; and (3) by agreeing to the remainder of the Senate amendments. 99-2, Oct. 17, 1986, p .....

The House has also agreed to a resolution taking from the Speaker's table a House bill with a Senate amendment thereto, and concurring in the Senate amendment with an amendment inserting in lieu thereof the text contained in a bill to be introduced on a date certain by the Majority Leader. 99-2, Oct. 8, 1986, p .....

In a related instance, the House adopted a special rule both amending a Senate amendment to delete a Senate provision and also separately adopting a concurrent resolution correcting the enrollment to reinsert that provision. 99-2, Oct. 17, 1986, p .....

Special orders of this nature may include provisions for a motion to dispose of a Senate amendment as well as "self-executing" provisions applicable to a related proposition. One such resolution permitted a separate motion to concur in a Senate amendment prior to the stage of disagreement and also contained a "self-executing" provision adopting a separate resolution expressing the legislative intent of the House in concurring in the Senate amendment. 99-2, Sept. 12, 1986, p .....

*Note:* One possible disadvantage of a self-executing resolution is that debate on the legislative proposition is controlled by the managers of the rule.

§ 5A.2 The House agreed to a resolution taking a House-passed revenue reconciliation bill from the Speaker's table with a Senate

amendment containing all that body's revenue and spending reduction reconciliation provisions, amending the Senate amendment with the combined provisions of two House-passed reconciliation bills, and insisting on the House amendment. 99-1, Dec. 5, 1985, p .....

§ 5A.3 The House agreed to a special order reported from the Committee on Rules, providing for the immediate rejection of a conference report (already adopted by the Senate), and for the House to recede from its amendment to a Senate amendment and to concur with an amendment consisting of the text of the rejected conference report absent one provision. 99-1, Dec. 19, 1985, p .....

## B. MOTIONS AND ORDERS DISPOSING OF AMENDMENTS BETWEEN THE HOUSES

### § 7. In General; Precedence

§ 7.1 The stage of disagreement having been reached on a Senate amendment (to which the House has refused to agree), the compound motion to disagree to the Senate amendment *and* to request a (further) conference takes precedence over the motion simply to disagree to the Senate amendment (*Manual* § 528); but if the motion to disagree and request a conference is rejected or tabled, the question recurs on a pending motion to disagree (subject to one hour of debate, equally divided). 99-2, Mar. 18, 1986, p .....

§ 7.2 A motion that the House recede from its amendment to a Senate amendment and concur in the Senate amendment (remaining in disagreement following a conference) is in order, the stage of disagreement having been reached. 97-2, June 23, 1982, p 14986. A motion in the House to concur in a Senate amendment (in the fourth degree) is privileged if offered by any Member, the stage of

disagreement having been reached. 99-2, Mar. 18, 1986, p .....

§ 7.4 The Senate having discharged a House bill with a Senate amendment from conference and further insisted on its amendment, being in possession of the papers, motions in the House to dispose of the Senate amendment are privileged when the message and papers are received, the stage of disagreement having been reached and the conferees having been discharged. In this instance, the original manager of the bill in the House offered a privileged motion to recede and concur in the Senate amendment with an amendment. 97-2, Dec. 20, 1982, p .....

§ 7.5 The ordinary priority of motions to dispose of Senate amendments in disagreement gives precedence to the motion to recede and concur over the motion to recede and concur with amendment, subject to a reversal of precedence where the question is divided and the House recedes from disagreement, and applies even where a special order specifically permits the offering of a motion to recede and concur in a Senate amendment with a nongermane amendment. 97-2, June 16, 1982, p 13870. As the House must first recede from its disagreement to a Senate amendment before a motion to concur with an amendment takes precedence over a motion to concur, the motion to concur with an amendment cannot be offered until the question on the motion to recede and concur has been divided and the House has receded; the Chair will put the question on receding immediately after a division of the question has been demanded where the manager of the bill controlling debate does not seek time before the Chair puts the question. 97-2, Dec. 16, 1982, p .....

§ 7.6 A motion to table a privileged motion to dispose of amendments between the Houses, the stage of disagreement having been reached, is in order before debate there-

on. At the end of debate (and before the previous question is ordered) on a privileged motion to concur in a Senate amendment (in the fourth degree), the stage of disagreement having been reached, a motion to table the motion to concur is in order (and if adopted tables the motion to concur but not the bill and amendments between the Houses thereto). 99-2, Mar. 18, 1986, p .....

## § 8. Recognition to Offer; Control of the Floor

§ 8.3 While a Member by offering a preferential motion to dispose of a Senate amendment in disagreement cannot thereby gain separate debate time thereon, he may by rising in opposition to the original motion control one third of the debate thereon under clause 2(b), Rule XXVIII where both the majority and minority party floor managers are in favor of the original motion. 99-2, Oct. 15, 1986, p ..... For a more comprehensive discussion of the new rule permitting three-way division of debate time, see Ch 33 § 22A, *infra*.

§ 8.5 When an amendment to a Senate amendment to a House-passed measure on the Speaker's table is made in order by unanimous consent, the Member offering the amendment then controls one hour of debate on his motion (no previous motion having been offered) but loses the floor if he yields to another Member to offer an amendment to his amendment. 99-2, June 19, 1986, p .....

§ 8.13 A Member making a unanimous-consent request to concur in Senate amendments is not entitled to recognition to control debate on the request, but he may be yielded to by another Member who reserves the right to object to the request. 98-2, Oct. 11, 1984, p .....

## § 9. To Agree or Concur

§ 9.1 For a resolution conferring preferential status on a motion to concur in a Senate

amendment to a House bill at the Speaker's table prior to the stage of disagreement, prohibiting all intervening motions and waiving points of order against a Senate amendment decreasing revenues below the revenue floor, see 99-1, Dec. 3, 1985, p .....

§ 9.3 The only question the Chair puts before the House on a unanimous-consent request to agree to a Senate amendment is whether there is an objection to the request (the Senate amendment having been read or its reading waived by unanimous consent), and lacking any objection, agreement to the request constitutes adoption of the Senate amendment; if any Member objects, the measure remains at the Speaker's table for further disposition. 98-2, Oct. 11, 1984, p ..... *Note:* It is also in order to request unanimous consent for the consideration of a motion to agree a Senate amendment, and that motion is debatable and subject to a vote when offered.

§ 9.8 For the procedure in the House following a motion to concur in a Senate amendment, pursuant to a special rule "deeming" a separate House resolution expressing legislative intent of the House to have been adopted, see 99-2, Sept. 12, 1986, p .....

## § 10. To Recede or Recede and Concur

§ 10.1 The House having previously disagreed to a Senate amendment (in the fourth degree), and the Senate then having insisted on its amendment, the House adopted a privileged motion (offered by a minority member) to recede from disagreement to that final Senate amendment and concur therein (objection having been made to a unanimous-consent request to amend the Senate amendment in the fifth degree). 99-2, Mar. 20, 1986, p ..... In a rare instance, the Senate tabled (instead of receding from) one of its amendments to a general appropriation bill reported from conference in disagreement and subse-



quently amended by the House (since in the Senate an amendment may be tabled without tabling the bill). 98-2, June 25, 1984, p ..... The House treated the Senate action as the equivalent to receding. 98-2, June 26, 1984, p ..... *Note:* As stated in *Jefferson's Manual* § 524, one House may recede from its amendment after the other House has concurred therein with an amendment, but this is insufficient to pass the bill without further action by the House which has concurred with an amendment (8 Cannon § 3177).

§ 10.2 A motion to recede and concur in a Senate amendment reported from conference in disagreement, offered by the Member managing the amendment on behalf of the committee, is preferential but may be divided on the demand of any Member; if the House recedes, a preferential motion to concur with an amendment is in order, but the hour of debate thereon is equally divided and controlled by the majority manager recognized to offer the initial motion and the minority manager of the conference report (unless he yields to the proponent of the motion to concur with an amendment to control the time). 98-2, Oct. 10, 1984, p .....

§ 10.4 Where a Member demands a division of the question on a motion to recede and concur in a Senate amendment immediately after it is offered, the Chair will put the question on receding immediately where the manager of the bill does not seek debate time before the Chair puts the question. 97-2, Dec. 16, 1982, p .....

§ 10.8 While under *Jefferson's Manual* the House may not recede from its amendment to a Senate measure with an amendment, the House has, by unanimous consent, permitted the consideration of a motion to recede from its amendment and amend the Senate text with another amendment. In this instance, in order to permit the House to act first on and change its own amendment in the nature of a substitute reported from conference in dis-

agreement, the House by unanimous consent agreed to permit one motion to recede from its amendment and to amend the Senate text with a proposed House amendment contained in the joint statement of managers. 97-2, June 21, 1982, pp 14470 et seq. The House has also by unanimous consent receded from a House amendment to a Senate amendment to a House bill, with an amendment. 98-1, July 14, 1983, p ..... And, in one instance, by unanimous consent, the House both amended a Senate amendment to a House amendment to a Senate bill and also separately amended the previously adopted House amendment. 98-2, Mar. 15, 1984, p ..... *Note:* These procedures are not consistent with the principle stated in *Jefferson's Manual* (§ 526) that the House may not recede from its own amendments with an amendment. Compare 5 Hinds § 6216, holding that a motion that the House recede from its amendment with an amendment is subject to a point of order.

## § 11. To Recede and Concur With an Amendment

§ 11.4 Where the motion to recede and concur in a Senate amendment with an amendment is divided on the demand of any Member, the Speaker may immediately put the question on receding from disagreement where no Member seeks debate thereon, and if the House recedes the pending question is on concurring with an amendment on which there may be one hour of debate equally divided between majority and minority parties. 99-1, Nov. 1, 1985, pp 30147, 30163.

§ 11.6 Instance where, on a numbered Senate amendment reported from conference in disagreement proposing to strike language in a House concurrent resolution on the budget, the House agreed to a motion to recede and concur in the Senate amendment with an amendment restoring the matter proposed to be stricken but also striking out language of

the House resolution not amended by the Senate amendment (see § 527 of *Jefferson's Manual* which precludes the striking of text to which both Houses have agreed). 97-1, May 20, 1981, p 10319.

## § 12. To Insist or Adhere

§ 12.2 Where the House refuses to recede from its disagreement to a Senate amend-

ment—the motion to recede and concur having been divided on demand of a Member—the motion to insist on disagreement is in order. 97-2, Dec. 16, 1982, p .....

## Chapter 33

# House-Senate Conferences

## A. INTRODUCTORY

### § 1. In General; Closing Conference Meetings

§ 1.4 A motion to close conference committee meetings pursuant to clause 6(a) of Rule XXVIII is privileged, is debatable for one hour, and must be voted on by a roll call vote. See *Manual* § 913d. See also 97-2, Aug. 3, 1982, p 18946. In one instance the House adopted a privileged motion authorizing closed meetings of the conferees on the Defense Department authorization bill, but allowing any Member of Congress to attend. 98-2, June 21, 1984, p .....

§ 1.5 When a point of order is sustained under clause 6 of Rule XXVIII that conferees on a House bill with a Senate amendment failed to meet formally in open session, the conference report is considered as rejected, the House is considered to have insisted upon disagreement to the Senate amendment, and the Chair is authorized to appoint new conferees. Thus, while the Chair does not normally look behind the signatures of conferees to determine the propriety of conference procedures, if proposed conferees have signed a

conference report before they have been formally appointed in both Houses and do not meet formally in open session after such appointment, the conference report is subject to automatic recommittal to conference under the rule. 97-2, Dec. 20, 1982, p .....

### § 2. Motions and Unanimous-consent Requests for Conference

§ 2.6 On rare occasions, the House by unanimous consent has "deemed" a House bill with possible Senate amendments sent to conference prior to Senate passage of the bill with amendments, in order to permit conferees to be appointed and to formally meet if the House is not in session. 97-2, Dec. 18, 1982, p .....; 98-1, Mar. 23, 1983, p .....; 98-2, Sept. 26, 1984, p ..... In such instances the Clerk has the authority to notify the Senate, pursuant to the consent previously granted by the House, that the House has deemed in advance to have disagreed to the Senate amendments and to have agreed to the conference. 97-2, Dec. 19, 1982, p ..... *Note:* The request in this form allows a motion to instruct to be offered before the Chair appoints conferees. The purpose of such a request is to allow

conferees to begin meeting formally when the Senate finishes consideration of the measure even if the House has adjourned before that time. This practice runs contrary to the principle stated in § 308 of *Jefferson's Manual* (and applied in 3 Hinds § 2656) that one House should not take notice of matters pending in the other until they be communicated, and is exercised only in extreme situations. The House action should not be mesaged to the Senate prior to Senate action.

#### § 4. When in Order

§ 4.1 A motion authorized by those committees with jurisdiction over an original House bill, to disagree to Senate amendments thereto and to request or agree to a conference, is in order pursuant to clause 1 of Rule XX only if the Speaker in his discretion recognizes for that purpose, and the Speaker will not recognize for the motion where he has referred the Senate amendment in question to the House committee or committees with jurisdiction and they have not yet had the opportunity to consider the amendment. 98-2, June 28, 1984, P .....

### B. CONFERENCE MANAGERS OR CONFEREES

#### § 5. Appointment by the Speaker

§ 5.1 *Delete* the reference to Rule X clause 6(e) and *insert* "Rule X clause 6(f)." In the designation of conferees from a House committee, the Speaker may appoint Members without regard to committee seniority. 99-2, July 16, 1986, p .....

§ 5.2 In one instance, the Speaker did not announce his appointment of conferees until the second session on a bill on which the House had requested a conference in the first session. 99-2, Feb. 6, 1986, p .....

§ 5.4 Pursuant to clause 6(f), Rule X, the Speaker may appoint conferees from the primary reporting committee on all provisions except a designated title, exclusive conferees from another committee on that title, and also additional conferees from other sequential committees on specified provisions, individual conferees (from the primary committee) on specified provisions; and one additional conferee in lieu of another where the latter is on two sequential committees and cannot be named twice on the same provision. 99-2, May 15, 1986, p .....

§ 5.6 The Speaker may, by unanimous consent, be authorized to appoint additional conferees on a bill in conference, and he may then appoint those additional conferees from certain committees solely on matters within those committees' jurisdictions. 99-1, Oct. 24, 1985, p 28743. By unanimous consent, the Speaker has been authorized to appoint an additional "exclusive" conferee on a portion of a bill already sent to conference containing nongermane matter on which only members from a nonreporting committee had been appointed. 99-2, Sept. 22, 1986, p .....

The specific sections designated for consideration in the Speaker's appointment of an additional conferee may be modified subsequently by unanimous consent. 99-1, Sept. 5, 1985, p 22953. And where the Speaker has appointed conferees to confer on specified provisions of a House bill, the House may, by unanimous consent, authorize him to change his designation of the provisions on which those conferees are appointed. 97-1, July 16, 1981, p 16076; 99-1, Dec. 10, 1985, p .....; 99-2, May 18, 1986, p .....

§ 5.7 While a Member designated by the Speaker pursuant to clause 7 of Rule I as Speaker pro tempore may appoint conferees only by unanimous consent, a Member elected Speaker pro tempore by the House under that clause in the absence of the Speaker may



appoint conferees without obtaining unanimous consent. 98-2, June 21, 1984, p .....

§ 5.8 On the "Omnibus Budget Reconciliation Act of 1981" considered in both Houses pursuant to the first concurrent resolution on the budget for the ensuing fiscal year, directing designated committees to report reconciliation entitlement and authorization reductions for three fiscal years, the Speaker appointed 10 members of the Budget Committee to confer on the entire bill and Senate amendment, and appointed at least 10 members from each legislative committee which had recommended titles of the House bill to confer solely on those designated portions. In this instance, by unanimous consent, the Speaker's appointment of conferees was read by the Clerk only with respect to names and committee memberships, and the designations of portions of the House bill and Senate amendment upon which they were appointed were printed in the Record. 97-1, July 15, 1981, pp 15854, 15857, 15858. On the omnibus budget reconciliation bill of 1986, the Speaker appointed eight members from the Committee on the Budget on all matters except revenue provisions on which conferees from the Committee on Ways and Means had been named, and appointed eight or fewer members from all other committees on all other matters committed to conference. 99-2, Sept. 25, 1986, p .....

§ 5.9 In recent years, where a major legislative measure is taken up in conference, and the measure falls within the jurisdiction of several committees and/or subcommittees, the Speaker has exercised his discretion to appoint Members in such a way as to represent the interests of the various committees involved. With respect to the defense authorization bill for fiscal 1986, the Speaker appointed several conferees from the reporting committee on all provisions committed to conference, appointed other members from that committee on all provisions except designated sections of the Senate bill, and also ap-

pointed as additional conferees members from another committee on intelligence-related matters only. 99-1, July 11, 1985, p 18552. On a bill reauthorizing the so-called environmental "Superfund," the Speaker (*inter alia*) appointed 10 conferees each from the Committees on Energy and Commerce and Public Works and Transportation for consideration of those issues jointly referred to both of them, dealing with environmental response in general; 10 conferees from the Committee on Energy and Commerce and five from the Committee on Public Works and Transportation for consideration of the "right-to-know" title; 10 conferees each from the Committees on Public Works and Transportation and Merchant Marine and Fisheries for consideration of an oil spill liability provision; 11 conferees from the Committee on Ways and Means for sole consideration of the revenue provisions; five conferees from the Committee on the Judiciary for the consideration of those provisions affecting the courts; and three conferees from the Committee on Armed Services for consideration of those provisions relating to environmental response by the military. 99-2, Feb. 6, 1986, p .....

Similar appointments of conferees were made by the Speaker on a bill relating to credit matters after it had been amended to include provisions relating to the Surgeon General (97-1, Apr. 8, 1981, p 6826); on a bill to which several committees of sequential jurisdiction had recommended amendments (98-2, Sept. 6, 1984, p .....); on an omnibus trade and tariff bill amended to include provisions on service industries development and international negotiations on economic issues (98-2, Oct. 3, 1984, p .....); on a highway bill amended to include revenue-raising provisions and provisions addressing prevailing wage-rate requirements (99-2, Oct. 2, 1986, p .....); on a bill on immigration reform amended to include matters on labor standards, public assistance programs, and deportation (99-2, Oct. 10, 1986, p .....); on the

Gramm-Rudman legislation, the Speaker naming a total of 53 conferees from numerous House committees (99-1, Dec. 10, 1985, p .....); on a bill designating a bulk mail center and amended by the Senate to include a comprehensive civil service retirement reform measure (99-1, Nov. 19, 1985, p .....); and on a measure providing expediting procedures for congressional review of regulations, as well as legislative veto and rules-change provisions (99-1, Oct. 31, 1985, p 29873).

§ 5.10 The Speaker, in addition to his appointment of two additional majority members as conferees on separate provisions each had successfully offered as amendments, appointed two minority members solely on those provisions as "substitute conferees" for two other minority members. 97-1, Oct. 28, 1981, p 25689.

§ 5.11 The Speaker pursuant to clause 6(f), Rule X, may appoint members from a nonreporting committee as exclusive conferees on a provision in a Senate measure solely within that committee's jurisdiction. 99-2, July 24, 1986, p ..... And the Speaker may appoint general conferees from the reporting committee on all Senate provisions, separate additional conferees from that committee on specified nongermane Senate sections, and additional conferees from the nonreporting committee on another nongermane section. 99-2, Oct. 8, 1986, p ..... In 1984, a Member who was neither a member of the reporting committee nor a sponsor of an amendment was appointed as an additional conferee on a bill only for consideration of an issue on which he had actively participated in floor proceedings. 98-2, June 21, 1984, p ..... *Note:* First instance in which a noncommittee member who was not the author of the amendment in question was appointed as an additional conferee. In a more recent instance, the Speaker appointed both committee and noncommittee members in "issue clusters" on specified provisions relating to arms control and to procurement reform where some of those non-

committee members had either sponsored components of those issues as packaged by the Rules Committee as an amendment for a separate vote, had been "active" on those issues in debate and/or had separately sponsored legislation passed by the House on that subject. 99-2, Sept. 18, 1986, p .....

§ 5.12 After the House amended a Senate bill with the combined texts of the two House-passed bills, the Speaker appointed conferees from each of three House committees for separate consideration of the three titles of the House amendment committed to conference. 97-2, July 27, 1982, p 18106.

§ 5.13 Where the Speaker had initially appointed only members of the Committee on Education and Labor as conferees on a Senate bill with a House amendment containing matters within the jurisdiction of the Committee on Energy and Commerce, the Speaker was subsequently authorized by unanimous consent to appoint 12 additional conferees, and to appoint members of the Committee on Energy and Commerce as sole conferees on the provision of the Senate bill solely within that committee's jurisdiction. 98-1, Sept. 21, 1983, p .....

§ 5.14 Where a nonrevenue House-passed bill was amended by the Senate to include revenue provisions, and the House agreed to go to conference with the Senate rather than return the Senate amendment to the Senate, the Speaker appointed as exclusive conferees on the Senate revenue provisions members from the Committee on Ways and Means. 98-2, Aug. 10, 1984, p .....

§ 5.15 Pursuant to clause 6(f), Rule X, the Speaker may appoint some general conferees on all provisions committed to conference and also additional conferees from the same committee—representing different subcommittees thereof—on separate provisions committed to conference. 99-2, Sept. 12, 1986, p ..... Thus, the Speaker may appoint mem-

bers from the Committee on Appropriations as conferees on all Senate amendments to a continuing appropriation measure sent to conference, and also appoint additional members from that committee (representing certain subcommittees) as additional conferees on designated Senate amendments. 99-1, Dec. 11, 1985, p ..... On the joint resolution making continuing appropriations for 1987, the Speaker appointed general conferees for consideration of the entire measure, and appointed additional conferees from each of the subcommittees of the Committee on Appropriations, solely for consideration of Senate amendments and modifications committed to conference within the jurisdiction of each subcommittee. 99-2, Oct. 6, 1986, p .....

### § 7. Changing Conferees; Resignations

§ 7.2 98-2, Sept. 11, 1984, p .....

§ 7.7 When the resignation of a conferee is accepted by the House by unanimous consent, the Speaker may appoint a successor conferee with all or part of the authority of the original conferee without further House authorization. 98-2, Mar. 21, 1984, p .....

## C. MOTIONS TO INSTRUCT CONFEREES

### § 8. In General; When in Order

§ 8.1 After the House agrees to send a bill to conference but before conferees are appointed, one (and only one) motion to instruct the conferees is in order. 97-1, Nov. 4, 1981, pp 26582, 26586; 98-1, Oct. 25, 1983, p ..... No amendment to the motion is in order unless the previous question is rejected or the Member having the floor yields for amendment. 98-1, Nov. 15, 1983, p ..... A motion to instruct House conferees to agree to a numbered Senate amendment with an amend-

ment may be amended upon rejection of the previous question on the motion. 97-2, June 9, 1982, p 13039.

§ 8.2 The House agreed to a motion to instruct conferees, instructing the managers on the part of the House to insist on a conference report achieving four broadly worded goals. 99-2, July 16, 1986, p .....

§ 8.9 Form of motion to instruct House conferees to "promptly" report certain amendments just sent to conference, see 99-1, Oct. 11, 1985, p 27366.

### § 9. Recognition to Offer; Debate

§ 9.1 One hour of debate is permitted on a motion to instruct conferees; that hour is controlled by the Member making that motion, and no additional debate thereon is in order unless the previous question is rejected or the Member having the floor yields for amendment, which would then permit an additional hour of debate controlled by the Member offering the amendment. 98-1, Nov. 15, 1983, p ..... Since the offeror of a motion to instruct conferees controls one hour of debate, he may yield half of that time to an opponent. 99-1, Oct. 11, 1985, p 27367.

§ 9.2 Where two minority members of the committee which had reported a bill seek recognition to offer a motion to instruct conferees prior to their appointment by the Speaker, the Chair will recognize the senior minority member of that committee. 99-2, Oct. 10, 1986, p .....

### § 10. Effect of Instructions

§ 10.1 The motion to instruct conferees is advisory only, and failure of House conferees to adhere to instructions of the House does not render their report subject to a point of order. 97-1, Oct. 29, 1981, p 26049.



§ 10.3 Whether or not an amendment to a motion to instruct conferees replaces or leaves intact the original instructions depends on the form of the amendment (which may simply propose additional instructions). 98-1, Nov. 15, 1983, p .....

## § 11. Where Conferees Fail to Act

§ 11.1 Pursuant to clause 1(b) of Rule XXVIII, after conferees on the part of both Houses have been appointed for 20 calendar days and have failed to report, motions to instruct House conferees are highly privileged. 97-1, May 20, 1981, p 10319; 99-1, July 10, 1985, pp 18442 et seq. *Note:* Only after 20 calendar days had fully elapsed from the date of appointment of conferees by the second House (the House agreeing to the request for a conference), would the motion to instruct (or to discharge and appoint new conferees) be privileged, and not on the twentieth day. Even though clause 1(b) speaks in terms of 20 days from the appointment of the House conferees, the rule has consistently been interpreted to require a conference committee to have been formed by appointment in both Houses. Otherwise the Senate might disregard the House request for a conference, take another action or no action at all and the instructions to House conferees would be meaningless.

§ 11.3 The Member offering a motion in the House to instruct House conferees after 20 calendar days controls one hour of debate on the motion. 97-1, Oct. 29, 1981, p 26046.

§ 11.4 The motion under clause 1(b) of Rule XXVIII to instruct House conferees who have not reported after 20 calendar days is subject to the nondebtable motion to lay on the table. 97-1, Oct. 29, 1981, p 26046.

§ 11.5 A bill having been committed to conference for 20 calendar days, a Member offered a privileged motion under clause 1(b) of Rule XXVIII, generally instructing the

House conferees merely to meet with Senate conferees (which motion was rejected by the House). 98-2, May 2, 1984, p ..... *Note:* See 74-1, Aug. 1, 1935, p 12272, where Speaker Byrns overruled a point of order made against a motion to instruct conferees containing "general" instructions to House conferees to hold conference under fair conditions, and in executive session if desirable, since the motion did not apply to Senate conferees.

## D. CONFERENCE REPORTS

### § 12. Privileged Status; Corrections

§ 12.4 Instance where a conference report and concurrent resolution making changes therein (by correcting the enrollment) were simultaneously adopted under a motion to suspend the rules. 98-1, Aug. 1, 1983, p ..... *Note:* This was the first instance wherein a conference report and concurrent resolution correcting the enrollment in advance of adoption of the conference report were considered as one package.

### § 13. Preparation and Filing of Report

§ 13.6 97-1, Aug. 3, 1981, p 19403. By unanimous consent, House conferees were permitted until noon the following day (a day when the House would not be in session) to file a conference report, and an additional part of the Record of the day of the request was authorized to contain the text of the report. 98-2, June 22, 1984, p .....

§ 13.9 The Chairman of the Committee on Energy and Commerce submitted an explanatory statement of the House and Senate conferees on the meaning of certain provisions of the Omnibus Reconciliation Act of 1981, and obtained unanimous consent for its insertion in the Record pursuant to the act. 97-1, Aug.

4, 1981, pp 19500, 19520. In this instance, the conference report included a legislative declaration that an explanation of a portion of the conference agreement to be subsequently printed in the Record should be considered for all purposes as part of the joint statement of the conferees. 97-1, July 29, 1981, p 18372.

*Note:* The declaration inserted in the report by the conferees, because they did not have time to include a detailed statement on that portion prior to filing, was of no effect until the bill was enacted into law or until both Houses obtained unanimous consent that such statement be considered as having been filed as part of the joint statement.

## § 14. Signatures

§ 14.1 A resolution was reported from the Committee on Rules waiving all points of order against a conference report containing matter beyond the scope of differences and nongermane Senate matter, and matter inserted after the majority of conferees had signed the report. 97-2, Aug. 19, 1982, p 22146. *Note:* While the precedents indicate that the Chair does not normally look behind the signatures on a conference report to inquire how a conference agreement might have been reached, one precedent indicates that the Chair may, upon filing of a conference report, submit to the House the question whether the report contains matter not agreed to by the conferees but inserted following the signing (5 Hinds § 6497).

§ 14.2 While minority views may not be filed in connection with conference reports (8 Cannon § 3302), a conferee may condition his signature by excepting from his approval the action of the House conferees on a certain Senate amendment. 97-2, June 10, 1982, pp 13437, 13449.

§ 14.5 Form of signatures on new conference report filed in the House following recommitment of the first conference report on a budget reconciliation act. 97-2, Aug. 17, 1982, pp

21453, 21454. *Note:* All conferees were required to re-sign the new conference report, including all Budget Committee conferees and all other separate conferees, even though issues in subconferences were not reopened.

## E. CONSIDERATION AND DISPOSITION OF REPORT

### § 17. Who May Call Up; Reading

§ 17.1 Instance where, on a conference report considered by House conferees appointed from two House committees on separate portions of a Senate amendment, the conference report was called up by the chairman of the committee that had not been the primary committee in the House; he yielded one-half of his time to the chairman of the primary committee. 97-2, Dec. 21, 1982, p .....

§ 17.3 By unanimous consent the House (1) granted permission that a conference report and Senate amendments in disagreement accompanying a joint resolution making further continuing appropriations be considered as read when called up for consideration; and (2) waived all points of order against the same conference report and amendments in disagreement, all prior to filing of the report. 98-1, Nov. 11, 1983, p .....

### § 20. — Waiving Points of Order

§ 20.1 For recent resolutions reported from the Committee on Rules waiving points of order against a conference report and against its consideration, see 99-1, Oct. 29, 1985, p 29328; 99-2, Oct. 15, 1986, p .....

§ 20.2 For resolutions waiving points of order against a conference report containing matters beyond the scope of the matters committed to conference, in violation of clause 3

of Rule XXVIII, see 97-1, Nov. 17, 1981, pp 27774, 27775, and 97-2, Aug. 11, 1982, pp 20481, 20482. See also 99-2, July 24, 1986, p .....

§ 20.4 Where by unanimous consent the House had waived all points of order against a conference report on a general appropriation bill prior to filing of the report, the Speaker indicated in response to a parliamentary inquiry that no point of order would lie against a Senate amendment containing legislation included in the conference report. 99-1, Dec. 16, 1985, p .....

§ 20.10 By unanimous consent, the House has agreed to or waived points of order against: the midnight filing of a new conference report on a bill recommitted to conference, and to consideration of the conference report on the following day (97-2, Aug. 17, 1982, pp 21397, 21398); the consideration of a conference report and amendments in disagreement on a joint resolution making continuing appropriations (97-2, Sept. 30, 1982, p 26190); the consideration of a conference report not yet filed and amendments reported in disagreement, subject to one-hour availability to Members (97-2, Dec. 19, 1982, p .....); the consideration of a conference report to permit consideration immediately upon filing and to waive any applicable points of order under the Budget Act (97-2, Dec. 21, 1982, p .....); the requirements of clause 2(a) of Rule XXVIII to permit the consideration of a conference report and amendments in disagreement (98-1, Sept. 29, 1983, p .....); the consideration of a conference report on a bill still in conference prior to the filing of the report (98-1, Nov. 15, 1983, p .....); the requirements of clause 3 (scope) and clause 4 (nongermane Senate amendments) of Rule XXVIII against a conference report on a joint resolution making an urgent supplemental appropriation (98-2, Mar. 27, 1984, p .....); a conference report on a combination tax reform and reconciliation bill before the conferees had reached agreement (98-2, June

18, 1984, p .....); the consideration of a conference report, any rule of the House to the contrary notwithstanding, the report be considered as read when called up for consideration (98-2, June 28, 1984, p .....); the consideration, prior to three-day availability, of a conference report containing no joint statement of the managers (98-2, June 29, 1984, p .....); the consideration, prior to filing, of a conference report and amendments reported from conference in disagreement on a joint resolution making continuing appropriations, subject to the availability of the conference report and amendments in disagreement for one hour (98-2, Oct. 4, 1984, p .....); allowing the managers to have until midnight to file a conference report on an omnibus trade and tariff bill, and making its consideration in order before three-day availability (98-2, Oct. 5, 1984, p .....); the consideration of a conference report (on a bill on which conferees had just been appointed) on that same day or any day thereafter (if filed) (99-1, Aug. 1, 1985, p 22640); a conference report and against its consideration subject to two-hour availability, prior to filing of the conference report (99-1, Dec. 10, 1985, p .....; 99-1, Dec. 16, 1985, p .....); the consideration of a conference report not yet filed and against the conference report itself, amendments reported in disagreement, and motions to dispose of amendments, subject to one-hour availability, and waiving reading of conference reports and Senate amendments in disagreement (99-1, Dec. 16, 1985, p .....); consideration of a conference report not yet filed, the conference report itself, and waiving the reading when called up (99-2, June 24, 1986, p .....); consideration of a conference report not yet filed, and the conference report itself, subject to printing in the Record for three days (99-2, Sept. 9, 1986, p .....).



## § 21. Time for Consideration; The Three-day Rule

§ 21.1 The Speaker indicated that House action on a conference report agreed to by the Senate would ordinarily, under Rule XXVIII, clause 2(a), not be in order until three days after filing in the House, absent adoption of a special order reported from the Committee on Rules expediting consideration. 99-1, Dec. 19, 1985, p .....

§ 21.2 While under clause 4(b) of Rule XI a special order from the Committee on Rules can ordinarily be considered on the same day reported only by a two-thirds vote in the House, a two-thirds vote is not required pursuant to clause 2(a) of Rule XXVIII for the consideration on the same day reported of a special order from the Committee on Rules which waives only the three-day layover and two-hour availability requirements of Rule XXVIII for conference reports and amendments in disagreement. 98-2, Aug. 10, 1984, p ..... *Note:* This is the first instance of a special order reported from the Committee on Rules and immediately called up which waived only the three-day rule against a conference report—no other waivers—and did not therefore need a two-thirds vote for consideration. In one instance, the House adopted a special order waiving the two-thirds vote requirement of Rule XI clause 4(b) during the remainder of the session for consideration of *any* special order reported from the Committee on Rules providing for consideration of a conference report or amendments in disagreement on a designated bill. The two-thirds vote requirement was thus construed as being waived against consideration of more than one special order reported with respect to the conference report. 99-1, Dec. 19, 1985, p .....

§ 21.4 By unanimous consent, the House considered a conference report in disagreement and a Senate amendment in the nature of a substitute to a general appropriation bill prior

to three-day availability. 97-2, July 14, 1982, p 16336.

§ 21.11 A special order was reported from the Committee on Rules waiving points of order against consideration of a conference report in total disagreement and an amendment reported in disagreement where not available for three days or two hours; points of order against a motion to concur in a Senate amendment with a nongermane amendment printed in the joint statement of the managers were also waived. 99-2, Mar. 13, 1986, p .....

§ 21.12 The House adopted a resolution waiving all points of order against a conference report and its consideration, except against any matter originally contained in three designated portions of the Senate amendment under clause 4 of Rule XXVIII (allowing points of order and motions to reject against nongermane Senate provisions). 99-2, Oct. 15, 1986, p .....

§ 21.13 Points of order against a conference report containing nongermane Senate matter, Senate appropriations on a legislative bill, and new entitlement authority in excess of the committee allocation, were waived pursuant to a resolution providing for its consideration. 99-2, Oct. 15, 1986, p .....

§ 21.14 Where House conferees had been separately appointed on policy and revenue provisions and only the nonrevenue conferees had informally reached agreement, the Committee on Rules reported a special order in advance of filing of the conference report waiving all points of order except against possible modifications of the revenue portion beyond the scope of differences or other provisions within the jurisdiction of the Ways and Means Committee. 99-2, Oct. 17, 1986, p .....

## § 22. Debate

§ 22.1 By unanimous consent, the House extended debate for an additional hour on a conference report on a spending and revenue bill. 98-2, June 27, 1984, p .....

§ 22.2 Pursuant to clause 2, Rule XXVIII, the Chair divides the hour of debate on an initial motion to dispose of amendments between the Houses on a bill reported from conference equally between a member of the majority and minority party, but under clause 6, Rule XIV, the Member who has offered the initial motion in the House (even if a minority member) has the right to open and close debate on that motion. 99-2, Mar. 18, 1986, p .....; 99-2, Mar. 20, 1986, p ..... By unanimous consent, the time allocated for debate on a conference report to the majority and minority managers may be allocated to other Members, with the right of those Members to yield time to other Members. 99-2, Oct. 8, 1986, p .....

§ 22.3 98-2, Oct. 10, 1984, p .....

§ 22.5 In the 99th Congress, the House continued its practice of equally dividing between majority and minority parties the time on all motions to dispose of amendments emerging from conference in disagreement, whether reported in disagreement or before the House at some other stage of disposition. See *Manual* § 913. The Chair will so divide the time on any motion to dispose of amendments between the Houses on a bill which has emerged from conference, such as where the House has rejected the conference report, or where the House has before it a new Senate amendment in the third degree. 99-2, Mar. 18, 1986, p ..... Thus, debate on a privileged motion to concur in a Senate amendment—at a subsequent stage of amendment following rejection of the conference report—is equally divided between the majority and minority parties under clause 2(c), Rule XXVIII. 99-1, Dec. 19, 1985, p .....

(overruling a precedent [94-2, Jan. 27, 1976, p 1035] that a Member offering the motion at a subsequent stage is entitled to an entire hour). Debate on a motion to dispose of a Senate amendment not reported from conference but subsequently before the House following further Senate action after adoption of a conference report, is likewise equally divided between the majority and minority parties. 99-1, Aug. 1, 1985, p 22561. Such a division of debate time is also in order on a motion to recede from disagreement to a Senate amendment and to concur therein with an amendment consisting of that portion of a conference report not rejected, following adoption of a motion to reject pursuant to clause 4 of Rule XXVIII. 99-2, Oct. 15, 1986, p ..... In the 98th Congress, the Speaker in his discretion divided the time equally on a motion to concur in a new Senate amendment where the Senate had receded with an amendment from one of its amendments reported from conference in disagreement. 98-1, Mar. 24, 1983, p ..... [Note: As the text in the bound volume indicates, the Chair has in the past declined to divide the time on a new Senate amendment subsequent to the disposition of the conference report.]

§ 22.6 Where a Member has demanded a division of the question on a motion to recede and concur in a Senate amendment reported from conference in disagreement, the issue whether the House will recede is debatable for one hour, but the Chair may put the question on receding without debate if the majority and minority floor managers do not seek recognition to debate that portion of the original motion, since the subsequent question of concurring, or concurring with an amendment, is debatable for one hour, equally divided and controlled by the managers. 98-2, Oct. 10, 1984, p .....

## § 22A. Three-way Division of Debate Time [New]

§ 22A.1 Subparagraphs (a) and (b) of clause 2 Rule XXVIII were amended in the 99th Congress to provide that if both the floor manager for the majority and the floor manager for the minority support a conference report, or the original motion offered to dispose of an amendment reported from conference in disagreement, the hour of debate thereon be divided three ways, among the managers and a Member who is opposed. *Manual* § 912. Pursuant to this rule, one-third of the time for debate on a conference report is allocated to a Member who is opposed to the report where both the majority and minority managers are in favor of the report. 99-1, Aug. 1, 1985, p 22640. This allocation may not be claimed if the minority manager states that he or she is opposed to the report. 99-2, Oct. 15, 1986, p ..... The rule permits a Member opposed to a conference report to control one-third of the debate time thereon; a Member opposed may control one-half the time only by unanimous consent. 99-2, Sept. 25, 1986, p ..... It is within the discretion of the Chair as to which Member is to be recognized in opposition. Recognition of a Member to control the 20 minutes of debate in opposition does not depend upon party affiliation, and the time in opposition may be divided by unanimous consent or yielded by the Member recognized. 99-1, Dec. 11, 1985, p .....; 99-1, Dec. 16, 1985, p .....

## § 23. Disposition of Matters in Disagreement; Calling Up

§ 23.1 Where conferees report in total disagreement, the conference report is called up but not acted upon, and the Senate amendments in disagreement are then disposed of by separate motions. 99-1, Nov. 1, 1985, pp 30126-68. The manager of a conference report and amendments reported from conference in disagreement may defer to another

Member (of the committee) to offer the initial motion to dispose of an amendment reported in disagreement. 98-2, May 24, 1984, p .....

§ 23.7 Where under clause 2(c) of Rule XXVIII, Senate amendments reported from conference in disagreement have been printed and available to Members for three days and are therefore merely designated by number rather than read by the Clerk in full, the Clerk designates each amendment only by reference to the appropriate page and line number of the original papers (the House engrossed bill and Senate numbered amendments). 97-1, Nov. 12, 1981, p 27226.

§ 23.8 The Senate having tabled an amendment reported from conference in disagreement in which the House had concurred with an amendment (equivalent to the Senate receding from its amendment under Senate procedure), the House receded from its amendment to the Senate amendment and agreed to the action of the Senate. 98-2, June 26, 1984, p .....

## § 24. Voting; Final Disposition of Report

§ 24.1 If the Chair sustains a point of order that conferees have agreed to a nongermane Senate provision, a motion to reject that provision is in order pursuant to clause 4(b) of Rule XXVIII, and is debatable for 40 minutes, equally divided between the Member making the motion and a Member opposed; if the motion to reject is not agreed to, debate commences on the conference report itself. 98-2, Oct. 11, 1984, p .....

§ 24.2 By unanimous consent, the House agreed to dispose of a numbered Senate amendment in disagreement out of chronological order. 99-1, Nov. 6, 1985, p 30853.

§ 24.9 After disposition of a conference report and amendments reported from conference in disagreement, it is in order to move



to reconsider the vote on a motion disposing of one of the amendments. 97-1, Nov. 22, 1981, p 28754; 98-1, Oct. 5, 1983, p ..... Laying on the table a motion to reconsider the vote whereby the House has amended a Senate amendment does not preclude the House from acting on a subsequent Senate amendment to that House amendment (or considering any other proper motion to dispose of an amendment which might remain in disagreement after further Senate action). 98-1, Oct. 5, 1983, p .....

## § 26. Recommittal

§ 26.9 Where a conference report is recommitted to a committee of conference, the

same conferees remain appointed. 97-2, Aug. 17, 1982, pp 21397, 21398.

§ 26.12 A motion to recommit a conference report may not instruct House conferees to include matter beyond the scope of differences committed to conference by either House. 97-1, Nov. 22, 1981, p 28747. *Note:* In this instance, the Speaker indicated that a motion to recommit containing instructions to include a termination date earlier than that proposed by a Senate amendment could be considered only by unanimous consent.

## Chapter 34

# Presidential Messages; Executive Communications

## § 1. In General

§ 1.4 Consistent with the doctrine of separation of powers and the precedents of the House, the Speaker may decline a request of the President to address the House in actual session on a legislative proposal on which the House is about to vote, where the traditional alternative of a joint session of both Houses, authorized by concurrent resolution, is available to the President. In this instance, the Speaker laid before the House a communication to the Speaker from the President, transmitting the text of remarks he had "hoped to deliver to the House" in person but had been unable to deliver because not invited by the Speaker to address the House in session. 99-2, June 24, 1986, p ..... *Note:* It is unprecedented for the President to address the House in actual session on a legislative proposal on which the House is about to vote. The Congress has traditionally, by concurrent resolu-

tion, invited the President, upon his request, to address the two Houses in joint session "for the purpose of receiving any communication he might be pleased to make." Joint sessions generally, see § 4, *infra*.

## § 2. Referral to Committee

§ 2.2 While the Chair traditionally lays before the House messages from the President on the day received, the House may, by unanimous consent, postpone the Chair's referral of a message to committee(s) until a subsequent day. 99-2, Feb. 3, 1986, p .....

§ 2.5 The Speaker referred a message with a report from the President only to the committee which had reported the bill requiring the report, although that law permitted referral to "appropriate committee," where only one copy of the report classified as "top secret"

was included in the message. 99-1, Apr. 3, 1985, p 7478.

§ 2.7 Pursuant to § 252(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985, and pursuant to special authority of the House, the Speaker referred to all legislative committees of the House the President's message transmitting the sequestration order for fiscal year 1986, together with all separate communications (yet to be received) from departments and agencies of the Federal Government, incorporated by reference in the message. 99-2, Feb. 4, 1986, p .....

## § 4. Joint Sessions to Receive Presidential Messages

§ 4.1 On Jan. 28, 1986, the House adopted a privileged concurrent resolution providing for a joint session to receive a state of the Union message from the President. 99-2, Jan. 28, 1986, p ..... Two days later, by unanimous consent, the House (the Senate acting separately) changed the time established by the concurrent resolution for convening in joint session. 99-2, Jan. 30, 1986, p .....

## Chapter 35

# Resignations

## § 1. Resignations of Members From the House

§ 1.1 The Speaker pro tempore laid before the House a communication from Representative Fred Richmond (N.Y.), advising that he had submitted his resignation as a Member of the House to the state Governor. 97-2, Sept. 8, 1982, p 22856.

§ 1.4 The Speaker laid before the House a communication from a Member advising that he had submitted his resignation as a Member to the state Governor, to become effective on a future date. 97-1, Mar. 17, 1981, p 4423. *Note:* A resignation to take effect on a future date may be withdrawn until the date is reached.

§ 1.9 A resignation should properly be submitted to the state Governor, with a letter of notification to the Speaker. However, where a Member has submitted his resignation from the House to the Speaker and not to the state Governor, the Speaker has notified the Governor of the resignation. 97-1, Apr. 29, 1981, p 7815. In one instance, where a Member re-

signed from the House by letter to the Speaker rather than to the Governor as required by state law, he forwarded an official telex copy of his letter of resignation to the Governor. 97-2, Mar. 9, 1982, p 3557.

## § 2. Resignations From Committees

§ 2.7 Instance where the resignation of the chairman of a standing committee was laid before the House following adoption of a privileged resolution electing another Member as chairman to fill that vacancy, and the resignation was accepted retroactively, by unanimous consent, as of the beginning of that day, in order to accommodate the vacancy. 98-2, Sept. 6, 1984, p .....

## § 3. Resignations of Officers and Employees

§ 3.1 The Speaker laid before the House the resignation of a minority employee who had been "named" in a resolution adopted by the House establishing his rate of compensation. 99-1, Dec. 19, 1985, p .....

## Chapter 36

## Recess

**§ 1. In General**

**§1.1** The motion for a recess is not privileged either in the House or in the Committee of the Whole. 97-1, June 26, 1981, p 14356.

**§ 1.2** Pursuant to the Speaker's request, the House stood in recess for consecutive 15-minute periods by unanimous consent. 99-2, Apr. 23, 1986, p .....

**§ 1.3** Pursuant to authority previously granted for the Speaker to declare recesses at any time, the Speaker pro tempore declared the House in recess (overnight), subject to the call of the Chair. 98-2, Oct. 11, 1984, p .....

**§ 1.5** When the House reconvenes after the expiration of an overnight recess to continue the same legislative day, prayer is offered by the Chaplain. 98-2, Oct. 12, 1984, p .....

**§ 2. Types of Recess Authority**

**§ 2.1** The House by unanimous consent authorized the Speaker to declare recesses at any time on the legislative days of Friday and Saturday, and if necessary on Sunday. 97-1, Nov. 19, 1981, p 28211.

**§ 2.3** Pursuant to authority previously granted to declare recesses at any time on the legislative day of Friday (or of Saturday), the Speaker continued the legislative day of Friday, November 20, 1981, into its third calendar day by recessing the House on Saturday, November 21, until 10 a.m. on Sunday, November 22. In this instance, the Speaker announced that Members would be given 15 minutes notice, while the House was in recess, after the completion of a conference report (on a joint resolution making continuing appropriations) and before the reconven-

ing of the House for its consideration. 97-1, Nov. 21, 1981, pp 28709, 28710. *Note:* While Sunday has traditionally not been considered a legislative day, the House has declined to affirm that it may not transact business on Sunday (5 Hinds § 6730), has continued sessions into Sunday on many occasions (5 Hinds § 6728), and has given special permission for the House to adjourn on Saturday to meet on Sunday (5 Hinds §§ 6731, 6732).

**§ 2.4** Pursuant to authority previously granted the Speaker, the Speaker pro tempore declared the House in recess until a time certain on the following calendar day. 97-1, Nov. 20, 1981, p 28628. In a similar instance, pursuant to authority granted to the Speaker to declare recesses at any time during a Thursday-evening-to-Monday-noon period subject to the call of the Chair, the Speaker recessed the House overnight rather than entertain a motion to adjourn. 98-1, Nov. 10, 1983, p .....

*Note:* By remaining in session overnight by recess, the legislative day is retained and no motion to adjourn or approval of the Journal is required.

**§ 3. Purpose of Recess**

**§ 3.2** By unanimous consent, the Speaker was authorized to declare a recess to permit Members to attend a briefing in the Foreign Affairs Committee hearing room by the Administration on an urgent foreign policy matter. 98-1, Oct. 24, 1983, p .....

**§ 3.3** The Speaker may also be authorized to declare a recess to receive foreign dignitaries in joint meeting. 98-2, Feb. 27, 1984, p .....

In 1985, pursuant to authority previously granted, the Speaker declared a recess for a



joint meeting to hear an address by the Prime Minister of Singapore. 99-1, Oct. 9, 1985, p 26921. The Speaker had been authorized to

declare this recess by unanimous consent. 99-1, Oct. 3, 1985, p 25869.

## Chapter 37

# Adjournment

### § 1. In General; Constitutional and Statutory Requirements

§ 1.2 Pursuant to the Legislative Reorganization Act of 1970, the vote on a concurrent resolution adjourning for the month of August in an odd-numbered year must be taken by the yeas and nays. 99-1, July 31, 1985, p 21782. This requirement may be waived by unanimous consent. 99-1, Aug. 1, 1985, p 22194 (Senate).

§ 1.3 98-2, July 26, 1984, p ..... (H. Con. Res. 342, waiving the requirement of the Legislative Reorganization Act of 1970 for *sine die* adjournment by July 31); see also 97-2, July 29, 1982, p 18563 (H. Con. Res. 386, waiving the requirement of the Legislative Reorganization Act of 1970 for *sine die* adjournment by July 31). *Note:* The statute (2 USC § 198) does not compel the two Houses to adjourn *sine die* at the conclusion of business July 31; they may by simple motion to adjourn in each House meet on August 1 or by unanimous consent adjourn for not more than three days, in the absence of the adoption of a concurrent resolution contemplated by the statute.

§ 1.4 *Note:* Concurrent resolutions merely postponing the August recess in an odd-numbered year to permit Congress to remain in session beyond July 31 are not privileged, and do not themselves require roll call votes for adoption. See 97-1, July 29, 1981, p 18030 (H. Con. Res. 164, waiving the requirement

of the Legislative Reorganization Act of 1970 for an "August recess").

### § 2. Sine Die Adjournment

§ 2.2 The House agreed to a Senate amendment in the nature of a substitute to a concurrent resolution providing for adjournment *sine die*, changing the date of adjournment from October 11, 1984, to that date or October 12, 1984. 98-2, Oct. 11, 1984, p ..... In 1986, the House agreed to a privileged concurrent resolution providing for *sine die* adjournment of the 99th Congress, second session, on either of two days on motion of the Majority Leaders or their designees. 99-2, Oct. 17, 1986, p .....

§ 2.9 The House adopted a concurrent resolution providing for *sine die* adjournment of the first session of the 98th Congress on November 17, 18, or 19, 1983, pursuant to a motion by the Majority Leader or his designee in the House, or the Majority Leader in the Senate; and authorizing the Speaker and Majority Leader of the Senate, acting jointly, after consultation with the Minority Leaders of the House and Senate respectively, to notify the Members of the House and Senate to reassemble (before January 3, 1984). 98-1, Nov. 16, 1983, p ..... *Note:* The concurrent resolution was not privileged, since § 310 of the Congressional Budget Act prohibits adjournment *sine die* until adoption of a second concurrent resolution on the budget.

### § 3. Adjournments for More Than Three Days

§ 3.1 The House cannot adjourn pursuant to a concurrent resolution providing for adjournment for more than three days to a day certain until both bodies have adopted the concurrent resolution. 98-2, June 29, 1984, p ..... In one instance, where the House had completed its legislative business and had adopted a concurrent resolution providing for adjournment of the House on that calendar day to a day certain, but had then recessed overnight pending Senate action on the concurrent resolution, the Senate amended the concurrent resolution to permit the House to adjourn on the following day. 97-2, Aug. 20, 1982, p 22682.

§ 3.2 In 1982, the House agreed to a privileged Senate concurrent resolution providing for adjournment of the two Houses from and to different days certain for an "Easter recess." 97-2, Apr. 1, 1982, p 6310. In 1984, the House adopted a privileged concurrent resolution providing for adjournment of the House for more than three days to a day certain, and for adjournment of the Senate on either of two days on motion of the Majority Leader until a different day certain. 98-2, Feb. 8, 1984, p .....

§ 3.4 In 1983, the House adopted a privileged concurrent resolution authorizing adjournments on motion of the Majority Leaders on either of two days (three days in the Senate) until September 12, or until both Houses were jointly recalled by the Speaker and the Senate Majority Leader. 98-1, July 29, 1983, p ..... In 1984, the House agreed to a privileged concurrent resolution providing for an adjournment of the two Houses from August 10, 1984, until September 5, 1984, unless notified to reassemble earlier by the Speaker and Majority Leader of the Senate acting jointly. 98-2, Aug. 10, 1984, p ..... And in one instance, the House concurred in a Senate amendment to a concurrent resolution provid-

ing for an adjournment of more than three days that authorized the Speaker and the Senate Majority Leader, acting jointly, to reassemble their respective Houses should the public interest warrant it. 98-2, Feb. 9, 1984, p ..... For similar resolutions in the 99th Congress, see 99-2, Feb. 6, 1986, p .....; and 99-2, Mar. 20, 1986, p ..... *Note:* These resolutions are examples of "joint" recall authority under which both the Speaker and the Senate Majority Leader must agree in order to call both Houses back into session.

§ 3.8 A privileged Senate concurrent resolution provided for adjournments to a day certain of the Senate on either of two *calendar* days, and of the House on a designated *legislative* day. 97-1, June 25, 1981, p 14185. *Note:* Permitting the House to adjourn on a legislative day avoided the need of stopping the clock in the House Chamber if the House remained in session beyond midnight of that calendar day.

§ 3.9 In 1981, the Senate adopted two Senate concurrent resolutions providing for an August recess (both providing for an adjournment of the Senate from August 3 until September 9), and providing alternative dates for the House to adjourn on August 4 or August 5, until September 9. The House not having agreed to either resolution on August 3, the Senate recessed by unanimous consent until noon August 6, unless the House agreed to either concurrent resolution, in which event the Senate would stand adjourned without reconvening following the recess. 97-1, Aug. 3, 1981, p 19402. The next day, the 4th, the House having completed its scheduled legislative business, the Speaker laid before the House the Senate concurrent resolution providing for an adjournment of the House on that day (and for adjournment of the Senate the previous day) for an "August recess." 97-1, Aug. 4, 1981, pp 19539, 19540.

§ 3.10 In 1982, the House adopted a privileged concurrent resolution providing adjournments on *any* of several days to a day certain in excess of three days on motion in each House by the Majority Leader or his designee. 97-2, June 24, 1982, p 15182.

§ 3.11 The House adjourned on the legislative day of March 24, 1983, but at 12:07 a.m. on the calendar day of March 25, 1983 (the clock in the Chamber having been stopped before midnight on order of the Speaker to permit the House to complete legislative business after midnight), pursuant to a concurrent resolution providing that when the House adjourned on March 24 it stand adjourned for more than three days to a day certain. 98-1, Mar. 24, 1983, p ..... *Note:* Stopping the clock would have been unnecessary if the adjournment resolution had provided for adjournment on the "legislative" day of March 24.

§ 3.12 The two Houses having adopted a privileged concurrent resolution providing for adjournments of each House on any of three designated days to a day certain, the House subsequently considered and agreed to a privileged Senate concurrent resolution adding a subsequent day on which each House might adjourn pursuant to the terms of the previously adopted resolution. Later that same day, by motion of the Majority Leader's designee pursuant to the two adjournment resolutions, the House adjourned for more than three days to a day certain. 98-1, Apr. 12, 1983, p .....

§ 3.13 By unanimous consent, the House waived the prohibition contained in § 309 of the Budget Act as amended, which would preclude consideration in the House of a concurrent resolution adjourning for more than three days in July until the House had passed all general appropriation bills for the ensuing fiscal year. 99-2, June 19, 1986, p .....

## § 4. Privileged Status of Resolutions Providing for Adjournment

§ 4.1 A concurrent resolution providing for the *sine die* adjournment of a session of Congress is privileged when offered by any Member but is subject to the motion to lay on the table. 99-1, Dec. 19, 1985, p .....

§ 4.3 98-2, Oct. 11, 1984, p ..... Senate amendments to concurrent resolutions providing for adjournments to a day certain are also laid before the House as privileged by the Speaker. 97-2, Feb. 10, 1982, p 1471.

## § 5. Motions to Adjourn

§ 5.1 A motion to adjourn is always in order if no other business is pending. 98-1, Mar. 22, 1983, p .....

§ 5.2 Under Rule XVI clause 4, the Speaker may, in his discretion at any time during a day, entertain a motion that when the House adjourns that day it adjourn to a day and time certain, and when entertained the motion is of equal privilege to the simple motion to adjourn and takes precedence over a pending question on which the vote has been objected to for lack of a quorum. 97-1, Nov. 17, 1981, p 27770. *Note:* Although *Jefferson's Manual* (§ 439) states that the motion to adjourn cannot be received after another question has been put and while the House is engaged in voting (5 Hinds § 5360), clause 4 of Rule XVI specifically permits the motion to adjourn to a day and time certain "at any time" at the Speaker's discretion, and was thus in order pending an objection to a vote under clause 4 of Rule XV.

§ 5.3 Under clause 4, Rule XVI, the motion to adjourn takes precedence over all other motions and questions, including the filing of a privileged report pursuant to clause 4(a), Rule XI. Thus, the motion to adjourn takes precedence over the filing of a privileged report on a contested election from the Com-



mittee on House Administration. 99-1, Apr. 29, 1985, p 9699. One motion to adjourn is in order pending a motion to suspend the rules (8 Cannon § 2823). 97-1, Dec. 16, 1981, p 31851. And one motion to adjourn is in order during the pendency of a special order reported from the Committee on Rules under clause 4(b), Rule XI. 99-1, May 15, 1985, pp 11949 et seq.

§ 5.4 A motion to adjourn may also be determined on a division vote. In this instance, the House on a division vote adjourned *sine die* for the 99th Congress, first session. 99-1, Dec. 20, 1985, p .....

§ 5.9 The two Houses having adopted a concurrent resolution permitting the House to adjourn to a day certain in excess of three days or to any prior day as determined by the House, a motion setting the day and hour was in order under clause 4 of Rule XVI. 97-2, May 27, 1982, p 12504. *Note:* Such a resolution offers the advantage of flexibility where one House is ready to adjourn but the other cannot yet decide on an adjournment or return date.

§ 5.10 Where the two Houses have adopted a concurrent resolution permitting an adjournment of the House to a day certain in excess of three days upon motion made by the Majority Leader or his designee, the Speaker may recognize the Majority Leader's designee to move to adjourn pursuant to the concurrent resolution over another Member, whose motion to adjourn if agreed to would only permit the House to adjourn overnight. 98-1, Aug. 4, 1983, p .....

§ 5.11 A motion under clause 4 of Rule XVI that when the House adjourns it stand adjourned to a day and time certain may provide that when the House adjourn it stand adjourned to a time certain later on the same calendar day. In this instance, the House convened and adjourned twice on the same calendar day pursuant to a motion under clause 4 of Rule XVI, thereby meeting for two leg-

islative days on the same calendar day. 97-1, Nov. 17, 1981, p 27770.

§ 5.12 The precedence conferred by clause 4 of Rule XVI on the motion to lay on the table only applies when the question to which it is offered is "under debate;" therefore, a privileged motion under that same clause to adjourn to a day and time certain, being non-debatable, is not subject to being laid on the table. 97-1, Nov. 17, 1981, p 27770.

§ 5.13 On rare occasions the House has adjourned overnight by unanimous consent at the instigation of the Chair, rather than by motion offered from the floor (such as where no Members are present to offer the motion at the conclusion of special-order speeches). 98-2, Sept. 6, 1984, p .....; 98-2, Oct. 5, 1984, p ..... In one instance, after the Speaker pro tempore had attempted by unanimous consent to adjourn the House at the end of special-order speeches, there being an objection, a minority member was then recognized to move adjournment—there being no majority member on the floor at the time. 98-2, May 23, 1984, p ..... For an instance where a minority member offered a motion to adjourn prior to the conclusion of special-order speeches, see 98-1, Nov. 4, 1983, p .....

## § 6. Quorum Requirements; Adjournment as Related to the Call

§ 6.1 A motion to adjourn to a day and time certain, made pursuant to a concurrent resolution permitting the House to adjourn to a day certain in excess of three days or to any prior day as determined by the House, requires a quorum for adoption. 97-2, May 27, 1982, p 12504.

§ 6.2 It is not in order to demand an "automatic" roll call under clause 4 of Rule XV on an affirmative vote on a motion to adjourn, since the motion to adjourn from day-to-day

may be agreed to by less than a quorum. 98-1, Nov. 4, 1983, p .....

## § 7. Debate on Matters Relating to Adjournment

§ 7.1 A concurrent resolution providing for adjournment *sine die* is not debatable except by unanimous consent. 98-2, Oct. 11, 1984, p ..... Likewise, debate on a motion to adjourn may be had only by unanimous consent, the motion being nondebateable under clause 4 of Rule XVI. 98-1, Nov. 4, 1983, p ..... See also 99-2, June 26, 1986, p ....., indicating that a privileged concurrent resolution providing for an adjournment of the two Houses to a day certain in excess of three days is not debatable.

§ 7.3 The Speaker may through his power of recognition recognize the Majority Leader by unanimous consent for one minute to announce the legislative program prior to enter-

taining a motion to adjourn. 97-2, Dec. 14, 1982, p .....

## § 8. Authorization to Act During Adjournment

§ 8.2 See also 99-1, Dec. 19, 1985, p ....., authorizing the Speaker to accept resignations and to appoint commissions, boards, and committees authorized "by law or by the House" during the adjournment *sine die*.

§ 8.3 The Speaker announces to the House when he has, pursuant to clause 4 of Rule I, signed an enrolled bill or joint resolution when the House was not in session. 97-1, Jan. 27, 1981, p 962.

§ 8.9 By unanimous consent, the Speaker was authorized to refer executive communications to the appropriate committee pursuant to clause 2 of Rule XXIV, during an adjournment of more than three days to a day certain. 97-1, Apr. 7, 1981, p 6841.